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Notes to Contributors

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Volume I · Number 1 · January 1962

A MESSAGE FROM THE RIGHT HONOURABLE LORD HAILEY,

P.C., O.M., G.C.S.I., G.C.M.G., G.C.I.E.

I HAVE been asked to send a message to the first issue of the *Journal of Local Administration Overseas* which now succeeds the *Journal of African Administration*, and I gladly take the opportunity to commend it to all who may be concerned with the administrative aspects of government at local levels as well as to those especially interested in local government, land tenure, local courts and the development of customary law.

I am delighted to know that the work of the former African Studies Branch and its Journal has now been extended to embrace a wider field than Africa alone and I hope that through the medium of the *Journal of Local Administration Overseas* information on all its subjects may be made widely available. It will, I am convinced, prove to be information of exceptional value, for it will embody the experiences of those who have been personally engaged in the practical work of administration. The administrative experiences and experiments of India may well be relevant to the West Indies and those of Canada to Nigeria.

HAILEY

Editor's Notes

With Lord Hailey's message to introduce this new volume of the *Journal*, we welcome new readers from outside Africa. Old readers will recognize little physical change in its appearance, but the contents will tend increasingly to reflect the wider field the *Journal* will cover.

Agricultural and tenurial changes in particular areas of Kenya have been a frequent feature of the *Journal*, providing a running commentary on the progress made towards the improved farming of African lands. It is therefore useful to have an article by Mr. F. D. Homan, the Secretary of the Trust Land Board in Kenya, which explains the basic processes and summarizes the achievements in all areas during the past five years. Although systems of land consolidation and agricultural improvement differ widely even in East Africa, Kenya's achievements are of more than local administrative interest – particularly the manner in which Africans themselves have voluntarily entered into projects with the minimum of external interference.

Mr. A. F. Greenwood, who writes most encouragingly of consolidation in a different sense, has had long service in local government both in Britain and in Ghana, where he notes the major developments in his field of work since 1951. Ghana has gone further than most African countries towards eliminating tribalism from local government; but her experience is similar to that of the Sudan[1] and elsewhere in the passing of responsibility in local government matters from the district administration to a separate inspectorate, and in the reduction of the number of local authorities in the interests of simplicity and efficiency.

In *Graduated Taxation in Teso District in Uganda*, Mr. A. C. Badenoch describes the method of imposition, assessment and collection of a graduated tax which, as in many other territories, is replacing the simple but often inequitable flat rate. Teso affords an admirable illustration of the way in which a system of taxation has been evolved to meet the immediate needs of local conditions.

In *Some Administrative Aspects of Community Development*, Mr. Peter du Sautoy writes from the triple viewpoint of former administrative officer in the Overseas Service, former head of a specialist Community Development Department, and present lecturer in community development at Manchester University. The result is a balanced presentation of the way in which community development might best be organized and administered.

Mr. C. J. Lynch, in *Some Aspects of the Drafting and Revision of Native Local Government Council Rules*, draws upon his experience in Papua and New Guinea to discuss an important facet of the council system. He records some of the ways of overcoming legal difficulties in a country in which custom can vary enormously over only a few miles, where the first councils were only established in 1950, and where the draftsman must decide whether a rule is valid before putting it in simple yet precise language. This is the first description in the *Journal* of local rule making as seen by a lawyer and his sympathetic attitude will be welcomed by (and may surprise some) administrators.

From local government in Africa and New Guinea to a brief guide on international technical co-operation ; the gap appears wide, yet the adminis-

[1] *J.A.A.*, Vol. XIII, No. 3, p. 158, *Local Administration in the Sudan*, by C. A. G. Wallis.

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trative officer is not only aware of, but often concerned with, both of these post-war developments. This accords with the aim of the *Journal*, which is to disseminate useful information to an increasingly wide field of local administrators confronted with the same problems in rapidly awakening societies throughout the world.

We publish in full the Kenya Sessional Paper relating to the reconstitution of local authorities. Although this Paper does not discuss the important aspect of the future relationship between them and the provincial administration, the proposals are of particular relevance to multi-racial societies elsewhere in tackling such problems as the franchise, ward delimitation, composition of councils and the creation of a unified and efficient local government service. The Paper also raises publicly for the first time the question whether some of the conventions, within which local government works in Britain, should be codified in Africa and given binding force.

Consolidation, Enclosure and Registration of Title in Kenya

by F. D. HOMAN
Secretary, Trust Land Board, Kenya

THERE have been several articles in this Journal about land consolidation in various districts of Kenya[1]. This is an attempt to explain the basic processes and to summarize what has been achieved in all areas during the past five years. It has been suggested that such an article might provide a useful comparison with the Uganda scheme as described in the July, 1960 issue of the Journal[2] but, except for the process of adjudication, which Uganda modelled on the Kenya committee system, the systems differ widely. For one thing, in Kenya, consolidation of fragmented holdings is always carried out before registration in areas where it is necessary; in Uganda, although this is an aim, it has so far not been achieved in any of the completed schemes. Registration in Uganda is often sporadic, whereas in Kenya it has always been systematic, and the Kenya system does not readily lend itself to the registration of a few non-contiguous holdings. Title in Uganda is based on a Deed Plan produced after a full cadastral survey to a high standard; in Kenya, the land comprised in the title is that shown by visible markings on the ground and no plan is necessary. Even in the process of adjudication there is one important difference – in Uganda, the final appeal is to the District Judge, a judicial officer; in Kenya the final decision upon any objection to the finding of a committee or arbitration board rests with the adjudication officer, who is an administrative officer appointed for the purpose.

Spectacular achievements in the Central Province have rather tended to obscure the very real progress that has been made elsewhere; in fact, consolidation and enclosure have been going on for the past three or four years all over the Colony and, on 30th June, 1961, out of a total of more than two million acres consolidated and enclosed in individual ownership, over half was in the Rift Valley and Nyanza Provinces. So far, title has only been registered over comparatively small areas outside the Central Province but the objective, which is to improve farming and increase production from the African areas, is being actively pursued everywhere.

The full process

Whether title is registered under the Land Registration (Special Areas) Ordinance, 1959, or whether the process stops short after enclosure and demarcation with the compilation of a list of landholders, it is basically the same in all areas. This process was described in the *Report of the Working Party on African Land Tenure*, 1957-58[3], but it will be convenient to outline it again here. First, it must be stressed that the operation is not even started until the Government

[1] Land Consolidation in the Kikuyu Areas of Kenya; by G. J. W. Pedraza, April, 1956.
Land Consolidation in the Fort Hall District of Kenya; by R. G. Wilson, M.B.E., July, 1956.
Safeguarding Agrarian Development in Kenya; by E. S. Clayton, July, 1959.
Improved Farming in the Central Nyanza District; by P. D. McEntee, April, 1960.

[2] A Pilot Scheme for Registration of Title in Uganda; by J. C. D. Lawrance, July, 1960.

[3] Government Printer, Nairobi; 1958; 5s.
See also *J.A.A.*, October, 1959, pp. 208 and 215.

is quite certain that the overwhelming majority of the local people want it. Public opinion is sounded at a series of open *barazas** held throughout the area concerned. When it has been decided to go ahead the following are the stages –

(*a*) The Ordinance is applied to the area required and an adjudication officer is appointed by the Minister. In view of the heavy responsibilities of the adjudication officer and the fact that his decision on all objections is final, the District Commissioner is usually appointed by office. The area to which the Ordinance is applied is known as an 'adjudication area'. To avoid successive applications of the Ordinance, the adjudication area is usually much larger than the area in which work is going to start – for instance in the Kikuyu districts of the Central Province it comprised all the African land within the districts.

(*b*) The adjudication officer declares adjudication sections. These are the areas in which work is actually going to take place and they might be termed 'scheme areas'. In the Central Province an adjudication section usually corresponded to an administrative sub-location comprising about 500 – 1,000 landowners. There may be as many as eighty of these sections within a district.

(*c*) When declaring adjudication sections the adjudication officer gives notice of the intention to adjudicate and fixes a period of not less than six months during which all persons claiming rights in land within the section must present their claims in person or by representative according to native law and custom. Very wide publicity is given to these notices by announcements in *barazas*, over the radio and in the vernacular press, and the information is also passed to district commissioners of districts where people concerned may be working, to large employers such as the Police, the King's African Rifles, the East African Railways and Harbours, and to all prisons and detention camps. In the Central Province, during the period when many landowners were detained, a *pro forma* was sent for the appointment of representatives according to customary law. Complaints based on non-representation were very infrequent.

(*d*) The District Commissioner appoints a committee for each adjudication section consisting of not less than twenty-five Africans residing within the section and the Provincial Commissioner appoints a panel of not less than six and not more than twenty-five persons resident within the adjudication *area* from which the District Commissioner may, from time to time, select not less than five persons to form an arbitration board. An executive officer is appointed for each committee and arbitration board but his function is to assist and guide the elders; he has no vote in their deliberations. Committees are appointed on a very local basis in order that the members may have an intimate knowledge of the history of the land and they are made very large as a safeguard against corruption. The panel system for the arbitration board is also designed to minimize the danger of corruption. Under the Native Land Tenure Rules, 1956, the arbitration board consisted of eight persons and it was found that they were frequently offered bribes. Under the new system the parties do not know until the last moment which five elders are going to decide a particular case and therefore, to ensure a decision in their favour, they would require to bribe all members of the panel which usually numbers the full twenty-five. The members of committees and arbitration boards

* Public Meetings.

are unpaid, otherwise it was feared that the majority of cases would be adjourned *sine die*.

(*e*) Committees decide upon the ownership of every piece of land within the adjudication section. If the committee cannot reach a decision it refers the claim to an arbitration board.

(*f*) The Record of Existing Rights is compiled from the decisions of the committee or arbitration board. This record is open for inspection for sixty days during which objections may be lodged. It should be noted that it is at this stage that the right of the individual to 'appeal' can be exercised. There is no right of appeal from a committee decision to the arbitration board. Reference to the board is made only by the committee itself if it cannot reach a decision, which usually, under customary law, has to be unanimous.

(*g*) If the objection is to a committee decision it is referred back to the committee, the committee's second decision being subject to confirmation by the adjudication officer who may, if he wishes, hear it himself with the arbitration board. An objection based on the decision of an arbitration board is heard by the adjudication officer assisted, but not bound, by the arbitration board. The decision of the adjudication officer is final in either case.

(*h*) After the expiry of sixty days, or when all objections have been resolved, the Record of Existing Rights is declared to be final, and it cannot thereafter be altered.*

(*i*) The Record of Existing Rights contains details, including the areas, of every piece of land within the adjudication section. While the pieces of land are being measured the Survey of Kenya will have produced maps of the perimeter area of the section. The next stage, therefore, is to compare the perimeter area, obtained by aerial survey methods, with the total area of the measured fragments. As the sides of the fragments are measured up and down slopes, whereas the perimeter survey is a horizontal projection, the two areas will never be exactly the same. The area of each fragment is therefore adjusted by multiplying by what is known as the 'reconciliation factor'; this is –

$$\frac{\text{Total acreage from aerial survey}}{\text{Total of all measured fragments}}$$

Experience has shown that the difference should not be more than about 5% – if it is, something has probably gone wrong and the ground measurements need to be checked again.

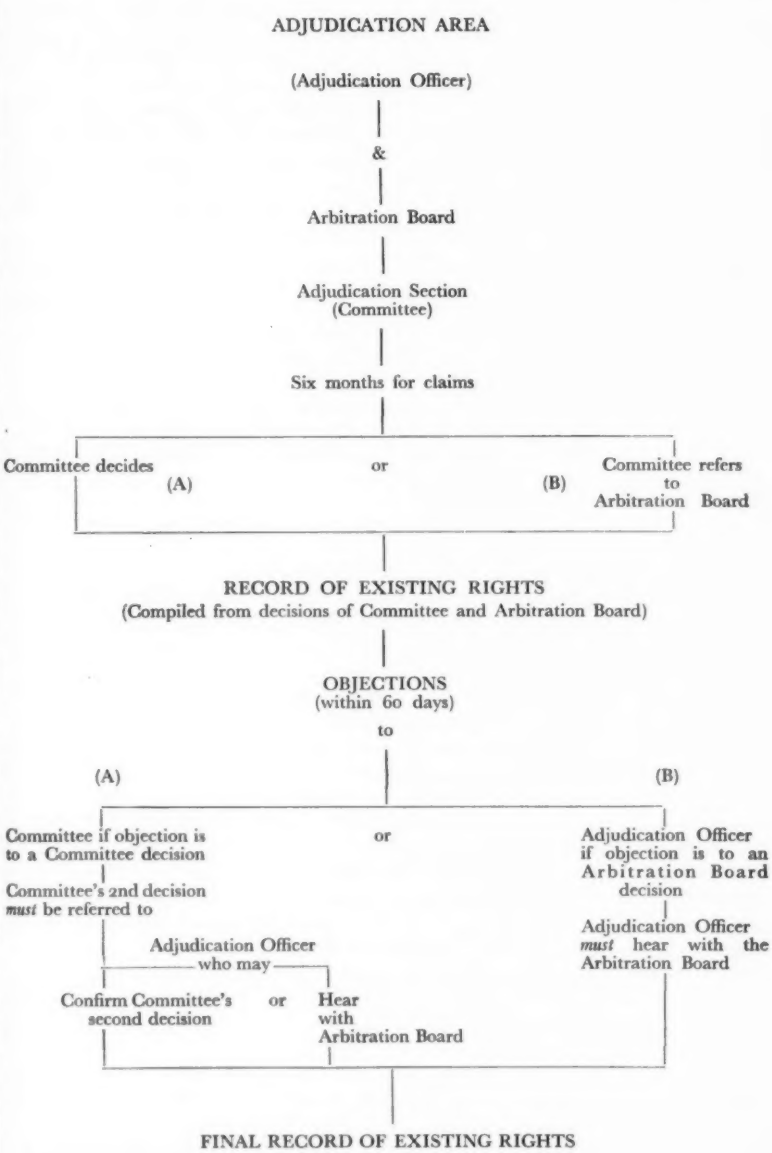
(*j*) Committees now have to decide how much land within the section is required for the needs of the community for local public purposes, such as schools, villages, roads and hospitals. This requirement is also calculated as a fraction of the total area of the section, being –

$$\frac{\text{Acreage required for public purposes}}{\text{Total acreage from aerial survey}}$$

The deduction is usually referred to as the 'percentage cut' – a term which has been widely misunderstood as meaning that the central Government or local authority has, in some way, taken a 'rake-off' from the land owned by individuals. In fact it is nothing of the kind. Every community needs land for public purposes. Before consolidation the only

* See diagram on page 7.

The system of appeals by way of objection to the Record of Existing Rights has been found confusing to those who are not familiar with it and the following diagram may be of assistance –



way in which land could be obtained was by setting apart under the provisions of the Trust Lands Ordinance. This meant that the land for the needs of the community as a whole had to be taken from one or two owners who were unfortunate enough to live on the site chosen. Although they were paid compensation for their loss, this was unsatisfactory to them as there was often no other land which they could buy. The 'percentage cut' is levied on *all* landowners within the section and thus has the great advantage of distributing the burden of providing land for public purposes among all persons who benefit from them.

(*k*) It is at this stage that the true process of 'consolidation' begins. After adjustment by way of the reconciliation factor and deduction of the percentage cut, committees allocate land to each landowner in a single piece equivalent to the sum total of all his previous fragmented pieces. The consolidated holdings are demarcated on the ground in the presence of members of the committee and the adjoining landowners.

(*l*) The adjudication register is then prepared. This contains details of each landowner's holding by reference to a map of the section. The adjudication register, when completed, is open for inspection and a further period of sixty days is allowed for objections. Errors revealed as a result of objections can be rectified either by re-demarcation or by the payment of compensation for loss.

(*m*) The final stage of registration of title takes place immediately after the period for objections has elapsed, or when all objections have been dealt with. By registration, rights amounting to full ownership under native customary law are recognized as freehold.

Achievements

The full process up to the stage of registration has, so far, been carried out in the Central Province and over 56,000 acres of the Nandi, Elgeyo-Marakwet and Baringo Districts of the Rift Valley Province. In the latter areas there is no fragmentation and therefore stage (*k*) only involves the straightening of boundaries. It is, however, also necessary to carry out a modified form of stage (*l*) because, after registration, the only way in which land can be obtained for public purposes is by agreement with the individual landowner or by invoking the provisions of the Indian Land Acquisition Act, 1894. Although the difficulties in operating this law which the Working Party envisaged[4] have not been encountered in practice, it is clearly more satisfactory for all concerned that provision for the present and foreseeable future needs of the community should be made with the mutual agreement of all landowners during the process of rearrangement of holdings. In the Kericho District, where the greater part of the land had already been enclosed and demarcated by Mauritius Thorn hedges, the process is exactly the same as in the Nandi District. A pilot scheme for registration was started in the Cheborge sub-location in July, 1960, but ran into difficulties earlier this year and had to stop for the time being.

Although the Land Registration (Special Areas) Ordinance, 1959, has only recently been applied to the Elgon Nyanza and North Nyanza Districts of the Nyanza Province, consolidation by the voluntary exchange of fragments and the mutual adjustment of boundaries has been carried out over wide areas throughout that Province. In order that it may be possible to proceed to

[4] Para. 125, op. cit.

registration at a later stage, care has been taken to follow as exactly as possible the procedure laid down in the Ordinance. That is to say, the determination of rights, consolidation of holdings and demarcation are all carried out by committees of Africans and the proper periods are allowed for inspection of records and objections to the committees' decisions. More recently still, enclosure has taken place in the Ngong and Loitokitok areas of Masai country, and the Ordinance has now been applied to the Kajiado District so that title may be registered in due course.

The figures of acreages enclosed and registered are given in Appendix A. Mere acreages, however, do not give a real idea of the vast areas covered. As a comparison, the area over which title has been registered is about the size of Kent and the total area enclosed is approximately the size of Kent and Sussex combined.

Control of sub-division

It would clearly be a waste of time, money and effort to consolidate and register ownership of land if the owners were afterwards free to sub-divide the land as they wished, for it would only be a matter of a few years before the process of fragmentation started again. Mainly to guard against this danger a system of control over land transactions was set up under the Land Control (Native Lands) Ordinance, 1959[5], enacted at the same time as the Registration Ordinance. Control is exercised by divisional land control boards which are predominantly African in composition and established on a very local basis – initially in the Kiambu District, for instance, there was one board for each administrative location; that is, each board dealt with about 2,000 farm owners. The objects of establishing boards on such a local basis to begin with were – first, to make them readily available to a landowner who wished to deal with his land; secondly, it was feared that if a board was established for too large an area it might be swamped by the volume of work; and, lastly, it was considered desirable, in the early stages, that members of the board should have personal knowledge of the land and farmers within its area of jurisdiction, for the board's function is not only to prevent uneconomic sub-division but also to exercise a form of guardianship over all land in the area.

The consent of a divisional board is required for any transaction and registration is not valid without such consent. There is provision for appeal against refusal of consent to a board established at provincial level. This board is also predominantly African in composition. The provincial board also has powers to give directions to divisional boards. The most important of these is the power to lay down minimum sizes for sub-division varying from area to area, but the provincial board can also prohibit any class of transaction, order that a divisional board shall refer any class of transaction to itself and, to prevent boards becoming overwhelmed by a mass of applications for straightforward transactions, the provincial board may give a general consent to any class of transactions. For instance, it might be reasonable to allow transfer of a whole parcel between Africans living in the same district. To date, however, the divisional boards themselves have insisted on hearing all applications, as the members argue that, for the benefit of the area as a whole, the character and capability of the farmer is almost as important as the size of holding. The policy pursued by provincial and divisional boards is subject to general direction by

[5] Now replaced by the Land Control (Special Areas) Regulations, 1961.

the Governor after consultation with the Trust Land Board. The Governor's first directive, which is included as Appendix B, gives a good idea of the lines on which boards work and the general scope of their duties.

After over two years of working it has not been found necessary to have so many boards in the Kiambu, Nyeri and Fort Hall Districts and they are now established on the basis of an administrative division. In the Embu District, however, they still function on a locational basis.

The system in practice

How is the system working in practice? It is of course too early to say for certain because even the Kiambu registry has only been in full operation for just over two years. The figures for transactions registered in the Central Province during 1959, 1960 and the first half of 1961 are given in Appendix A.

It would be unwise to attempt to draw conclusions from these figures. One would have expected, for instance, that the total number of transactions in the Kiambu District would have increased during the second full year of operation instead of decreasing. This anomaly is probably partly due to the fact that during consolidation it was an administrative rule that any owner whose holding was less than 'economic size' (four acres) must take it in the form of an allotment round a permanent village. In many cases, therefore, brothers agreed together to register all their land in the name of one of them only so that they could remain on their own family land, not realizing that they would be prevented from sub-dividing afterwards. To avoid friction within families the sub-division of these combined holdings has been allowed and even encouraged. Many of the early transfers were probably of this nature.

Two important facts are revealed by the figures however. The first is that the number of transmissions registered is much too low. In the Kiambu District, for instance, about 25 per annum represents less than 1/10th% of the farm owners alone. Again there are some reasons. Many fathers split up their farms in the process of consolidation and allowed the divided shares to be registered in the names of their sons – a sort of last share-out before control of sub-division came into being. A lot of registered owners are therefore still comparatively young. There is little doubt, however, that a number of transmissions are not being registered, and to counteract this a system is operated whereby the assistant registrar makes regular visits to the centres where the control boards sit in order to make it as easy as possible for anyone to report and register the inheritance of property.

The second important fact revealed is the large number of charges that have been registered. Out of the total of over 1,800 registered in two years, nearly three-quarters were in favour of commercial banks which, up to June 30th, 1961, had invested £180,000 in the Kiambu District alone. The other charges were, for the most part, registered to secure loans made from central and local government resources.

Costs

In his article on the Uganda Scheme, Lawrance gives figures of the cost per acre, and it has been suggested that this might usefully be compared with the cost in the Central Province of Kenya. As already stated, however, the processes are very different, particularly as to survey requirements, and it is doubtful whether comparison will serve any useful purpose as it is only possible to give an approximate figure for the Kenya process. The cost of survey for first

registration is not high but it has been decided, as a matter of policy, that boundaries will be re-surveyed by aerial methods as soon as hedges have grown sufficiently to be visible in air photographs in order that the maps used for first registration may be replaced by accurate ones; and the Survey of Kenya will then undertake all survey required for sub-division. This re-fly is not merely a matter of preparing maps from aerial photographs. In the course of it numerous errors and omissions are revealed. Hedges which have not grown properly, mistakes in computing acreages, the alignment of boundaries on the ground failing to conform to those shown on the first registration maps, and so on. The correction of these errors involves a great deal of work on the ground and necessitates the retention of land consolidation personnel for a year or more after first registration, and in no area has the full process been completed to the stage of final mapping from re-fly.

The only comparable estimate that can be given therefore is the cost of the process up to the stage of first registration. In the two districts of Nyeri and Kiambu 445,000 acres had been registered by 30th June, 1960. The total expenditure for field work was:–

Kiambu	£171,926
Nyeri	£158,841
Staff paid from headquarters votes	£45,000 (approximately)
	£375,767

or nearly Shs. 17/- per acre. The Survey of Kenya have assessed the total cost of their operations up to the same stage over an area of 207 sq. miles as £8,687 or Shs. 1/28 per acre, plus an additional amount of approximately -/12 cents per acre for preparing and printing first registration maps. The total cost therefore is somewhere in the region of Shs. 18/40 per acre up to the stage of first registration, but it must again be stressed that this is by no means the end of the process in Kenya.

APPENDIX A

I. Enclosure and Registration of African Farms in Kenya up to June 30th, 1961

	Enclosure		*Registration*	
District	*Acres*	*Farms*	*Acres*	*Farms*
Kiambu	238,412	37,408	238,412	37,408
Fort Hall	226,725	64,778	159,745	45,712
Nyeri	201,386	43,593	201,386	43,593
Embu	311,000	44,417	262,298	36,541
Meru	21,424	4,762	—	—
Total Central Province	998,947	194,958	861,841	163,254

I. ENCLOSURE AND REGISTRATION OF AFRICAN FARMS IN KENYA UP TO JUNE 30TH, 1961—*continued*

District	*Enclosure*		*Registration*	
	Acres	*Farms*	*Acres*	*Farms*
Nandi	326,655	15,100	26,330	1,268
Baringo	94,922	2,100	28,457	442
Elgeyo	15,600	1,172	2,000	199
West Suk	6,697	160	—	—
TOTAL RIFT VALLEY PROVINCE	443,874	18,532	56,787	1,909
E/Nyanza	123,050	6,940	—	—
N/Nyanza	70,998	9,800	—	—
C/Nyanza	55,300	6,911	—	—
S/Nyanza	52,000	7,400	—	—
Kericho	257,800	18,800	—	—
TOTAL NYANZA PROVINCE	559,148	49,851	—	—
GRAND TOTAL	2,001,969	263,341	918,628	165,163

II. TRANSACTIONS IN REGISTERED AFRICAN LAND

1959	*Transfers*	*Leases*	*Charges*	*Trans-missions*	*Misc.*	TOTAL
Kiambu ...	1,482	1	24	29	—	1,536
Fort Hall ...	105	—	1	8	—	114
Nyeri ...	389	2	6	25	—	422
Embu ...	46	—	—	6	—	52
	2,022	3	31	68	—	2,124
1960						
Kiambu ...	782	4	658	23	26	1,493
Fort Hall ...	96	1	178	8	3	286
Nyeri ...	133	3	274	28	8	446
Embu ...	148	—	—	6	—	154
	1,159	8	1,110	65	37	2,379
1961 (*first six months*)						
Kiambu ...	403	39	375	7	51	875
Fort Hall ...	4	3	108	—	2	117
Nyeri ...	35	14	195	2	1	247
Embu ...	157	3	20	2	—	182
	599	59	698	11	54	1,421

APPENDIX B

23rd January, 1960

The Chairman,
Provincial Land Board.

THE LAND CONTROL (NATIVE LANDS) ORDINANCE, 1959
(No. 28/59)

I am directed by the Governor acting after consultation with the Native Lands Trust Board, to give the following general directions and guidance to all provincial boards:–

The maximum production and employment in the African farming areas will be achieved only by having as many farms as possible of economic acreage. It should be our policy, therefore, in the long run, to prevent sub-division below economic size and to encourage the amalgamation of holdings which at present are not of economic size, in order to create more larger holdings which can be properly developed.

It is important, however, to take into consideration local tradition, customary laws of inheritance and public feeling, and to bear in mind that the ownership of land by a large number of people has a stabilising effect on African society. It would be unwise, therefore, in the early days of land registration and control over land transactions to insist too rigidly on measures aimed at increasing agricultural production.

In the initial directives by provincial boards to divisional boards therefore, the minimum acreage below which sub-division is forbidden should be the minimum subsistence acreage for the zone over which a divisional board exercises control. Where, however, a transaction would result in the creation of a holding of less than 'economic' size, divisional boards should be directed that they may not themselves approve such a transaction but must refer the application, with the board's recommendation, for approval by the provincial board.

Even before land consolidation started there was a tendency in some areas for a few wealthy Africans to buy up large acreages of land and to leave it undeveloped. I would like boards to watch this carefully and report to me if there is any serious tendency towards the acquisition of land for purely speculative purposes in this way.

If the machinery for controlling land transactions is to work smoothly it is important that boards should not be overwhelmed by the number of applications they have to consider. I would therefore like provincial boards to consult divisional boards with a view to giving a general consent under section 11(1)(a) of the Ordinance, in respect of certain classes of transactions as, for instance, the sale and leasing of agricultural land not involving sub-division where the parties are of the same district.

One of the benefits to be gained from the registration of individual title is the ability on the part of an African farmer to raise a loan by way of a legal charge or mortgage. In order that no obstacle should be placed in the way of Africans desiring to raise loans from reliable sources, provincial boards should consider giving a general consent under section 11(1)(*a*) to charges in favour of the Land and Agricultural Bank of Kenya or those commercial banks which have branches at the headquarters of the district concerned.

There is however, clearly a danger that Africans may charge land to unscrupulous lenders on terms that are so onerous that they will never be able to repay.

Provincial boards should therefore instruct divisional boards that, except in the case of banks as mentioned above, all applications for consent to a charge should be referred to the provincial board for approval and, if the board is in any doubt as to the terms upon which the loan is to be made, it should refer the matter to the Registrar of Native Lands for his advice before giving consent.

Provincial and divisional boards have an important dual role to play in the future. They are the bodies through which Government will disseminate its policy and ideas to African farmers, and they will also report to the Government on all matters affecting land usage and development. I am confident that boards will carry out their duties conscientiously and with the best interests of the land at heart and I ask them to keep me, and the Native Lands Trust Board fully informed of public opinion in matters concerning land.

(*Sgd.*) C. M. JOHNSTON,
Minister for African Affairs.

Graduated Taxation in the Teso District of Uganda

by A. C. BADENOCH[1]

District Officer, Uganda

An account of the method of imposition, assessment and collection of graduated taxes by the Teso District Council in the Eastern Province of Uganda

Preface

The present system of taxation by the Teso District Council and by other African authorities in Uganda has developed over the years to meet changing circumstances in Uganda. There are many problems still to be overcome and the system may possibly be modified on a reconsideration of central/local government financial relationships arising out of the recent Uganda Relationships Commission Report.[2] Nevertheless the present system can be claimed to be meeting substantially the immediate needs of the times.

Background and past history

Prior to 1939, taxation on the African population in Uganda was levied by the Protectorate Government only in the form of a poll or personal tax on male Africans over the age of eighteen. From the 1st January, 1939, by virtue of the Native Administration Tax Ordinance, African authorities were for the first time permitted to levy a tax themselves. At that date the taxes levied in Teso District were Protectorate Government poll tax Shs. 18/- and African authority tax Shs. 7/-; these rates continued unchanged until 1949. During this period the Teso District Council was gradually assuming greater responsibility for local affairs and its expenses steadily increased. In order to provide the local authority with the money which it required to pay its staff the Protectorate Government passed over to the local authority a proportion of the poll tax which it collected. Initially the percentage of this rebate was small but in the course of time it was increased as the local authorities' expenses increased.

With the enactment of the African Local Governments Ordinance 1949, establishing African authorities on a proper basis, the system of rebate was abandoned. The Protectorate Government poll tax was reduced to Shs. 6/- and the African authority tax increased first to Shs. 19/- and then to Shs. 22/-. Provision was made for partial or total exemption from tax of persons who were unable to pay the full flat rate. In the early 1950's the African authority tax was steadily raised to meet the increasing demand for local authority expenditure. It was plain, however, that the flat rate of tax set a limit on the amount of revenue which could be raised because the rate could only be fixed at a sum which the majority of people could afford to pay.

In 1953, in an 'Enquiry into African Local Government in Uganda', Mr. C. A. G. Wallis of the African Studies Branch in the Colonial Office recommended the introduction of a system of graduated personal tax to replace the old flat rate taxes so that African authorities could thereby increase their rev-

[1] The author was assisted in the compilation of this article by M. Rogers, District Commissioner, Teso.

[2] See *J.A.A.*, October, 1961, p. 243.

enues by levying higher taxes on those able to afford them. This recommendation was accepted by the Protectorate Government, and graduated tax systems were devised and introduced by many African district councils in 1954. Since then all district councils in the Protectorate have adopted graduated taxation.

To begin with, the gradations in the tax were short and the top rate was low. Assessments were carried out by lower councils at either the sub-county or parish level – the taxpayers in the area appearing before the council one by one and being adjudged by common repute which rate of tax they were capable of paying. This 'popular' system of assessment resulted in graduated taxation being readily accepted in all districts in the country. Assessments by full councils, however, had certain disadvantages: council members tended to favour their own kind by prescribing low taxes for each other; as such council members are usually among the more wealthy in the community, this set a bad example. Also the African concept that 'position' carried exemption from worrying concerns such as taxation died harder under a council assessment system. Assessment by full councils was laborious and long winded, and was soon superseded in most districts by assessment by smaller committees of councils composed of only half a dozen members or so. During the course of time the gradations of the tax were increased in number and the highest rates raised.

In addition to their personal standard of graduated taxes, since 1952 many district councils had also been levying an education tax. This tax, designed to help pay for the ever increasing cost of education in the districts, was levied on a personal basis, at a low rate of Shs. 2/- to 10/- per taxpayer. It was readily accepted by the local people in their eagerness to foster educational development.

Teso District Council

The Teso District Council had imposed graduated taxes in 1956, and had also been among the first councils to impose an education tax in 1952. The graduated tax system in the district had developed along lines similar to those in other districts, but in 1958, in a well meaning endeavour to obtain further revenue and to remedy the wide variations in tax in different parts of the district, which had come about through unjust arbitrary assessments and frequent too low assessments of the rich, the District Council instituted further higher grades of tax and ordered that the assessments be carried out much more strictly. As a consequence of the council's decision a considerable amount of feeling was engendered throughout the district. Some people were alarmed at the higher grades of tax which many of them were called upon to pay. In addition the chiefs sitting on the assessment committees frequently opposed the unofficial members of the committees and on many occasions overruled them, insisting that the richer taxpayers must pay the higher amounts which the chiefs considered they could well afford. Dissatisfaction was widespread and culminated in a riot in one sub-county.

To remedy the situation a new scheme of assessments was at once evolved by the District Commissioner and placed before the finance committee of the District Council. The finance committee ordered its implementation forthwith. The scheme is basically the one still current now in the district and will shortly be described in detail.

Before doing this it is worth mentioning one other important decision taken by the District Council. In 1959 the council decided to abolish the education

tax and amalgamate it with the graduated tax. The education tax, originally imposed at a low figure, had been progressively increased, mainly because this tax was specifically reserved for the development of education and was the one the people were most willing to pay; in 1958 it was fixed at a rate of Shs. 15/- per annum. Even at this rate the yield was quite inadequate to cover the full costs of the primary and other educational services which the council was sponsoring, and the council considered that it was wiser to have one tax only for all services. The Government considered it to be wrong in principle to have 'tied' taxes and therefore strongly endorsed the decision of the council.

The present system of assessment and collection of graduated tax

The Teso District Council's graduated tax is levied under the provisions of the District Administration (District Councils) Ordinance 1955. This authorizes the council to levy a graduated rate per head on male Africans of or over the apparent age of eighteen years; the tax is due and payable on the 1st January in every year.

The council in preparing its annual estimates decides the various grades and rates of tax to be levied during the forthcoming tax year. It does this with a general eye to the expenditure it wishes to meet in its budget, but no detailed attempt is made yet to fix taxes exactly to meet a specific figure on the expenditure side of the budget; the council gets in as much money as it can considering the level of economic prosperity in the country. The council also takes into account the flat rate poll tax at Shs. 6/- per head levied by the Protectorate Government.

The rates of tax start off at the bottom with a partial rate for those adjudged, for one reason or another, too poor to pay at what used to be called the standard rate. These now pay below the lowest rate of graduated tax proper. This lowest rate is the one which the council considers any able-bodied taxpayer should be able to pay – the ordinary labourer or ordinary farmer. Above this rate other rates are specified at narrow intervals to start with, gradually increasing in amount until the three topmost grades where there is a gap of Shs. 100/- between each. The council then specifies the ranges of income which shall be equated to each rate of tax; a taxpayer in a certain income bracket paying tax at a certain rate.

A table showing the rate of tax which each income group at present attracts is set out below:

Taxable income for year	*Tax to be paid*
£30—40 (Grade III Farmer)	Shs. 40/-
£41—50 (Grade II Farmer)	Shs. 55/-
£51—60 (Grade I Farmer)	Shs. 70/-
£61—80	Shs. 85/-
£81—110	Shs. 100/-
£111—150	Shs. 125/-
£151—220	Shs. 150/-
£221—380	Shs. 200/-
£381—600	Shs. 300/-
£601—and above	Shs. 400/-

This table can be varied at any time by resolution of the council, subject to the approval of the Provincial Commissioner.

The system used in Teso in making the assessments of a taxpayer's income grade has been evolved over a period of years. In the early days of graduated

taxation taxes were assessed on a man's 'wealth', i.e. his property and visible possessions and also perhaps his annual income. In the last year or two, however, the trend has been switching towards assessments based on a taxpayer's annual income; in Teso assessments are now based, theoretically at least, solely on a man's actual or imputed annual income. This system has been used to a great extent as a model for the recommendations sent out to all African authorities by the Ministry of Local Government in a memorandum for their guidance in the development of their personal tax systems.

A system of assessing taxes on an annual income can, by its very nature, become detailed and sophisticated. African authorities in Uganda are not capable at the present time of a full scale detailed income assessment; therefore short-cuts are made use of to obtain a reasonably fair figure of taxpayers' incomes. The simplest of these is to impute to a taxpayer an annual income based on his occupation or the size of his farm. This solution can readily be applied to the majority of taxpayers in most districts as district populations consist mainly of peasant farmers.

In Teso the imputation of an income to the farmer taxpayer is fairly simple. It is not a rich agricultural district and the wealth of the present farmer is not so divergent as it is in, say, Buganda or Busoga. All farmers in the district are by custom spoken of as being divided into three classes, small farmer, medium farmer and big farmers; each group has its own name in the local language. The council has imputed to each class an annual income respectively as follows: small farmers, £30-40; medium farmers, £41-50; and large farmers, £51-60. Each class of farmer has to pay tax respectively at Shs. 40/-; Shs. 55/- and Shs. 70/-. The majority of the farmers, i.e. approximately 60%, are in the medium class; 35% are classified as small farmers and but 5% as big farmers.

Teso is a relatively rich cattle-owning district, but in accordance with its policy of taxing incomes only, cattle as such are not taxed. The council taxes cattle traders by imputing an annual income to them based on the assumption that the average profit from cattle exported from the district is Shs. 20/- per head and on cattle slaughtered for sale within the district Shs. 40/- per head. Both these figures are calculated as the net profit to the trader after deduction of reasonable expenses involved in the trade.

In the case of the incomes of traders, builders, and other such-like businessmen, where the council is unable to get proper actual income figures it estimates the profit made out of the business or trade and thereby by imputation the businessman's income for tax purposes. At the present time the council estimates the income at the rate of Shs. 5/- for every Shs. 100/- worth of goods sold or work done.

The council allows deductions from the taxpayer's gross income for a limited range of dependants whom the taxpayer may be supporting; for example, disabled or crippled adults or children, or imbeciles. The deduction allowed is at the flat rate of Shs. 60/- for each such person. School fees on a scale laid down by the council can also be deducted. The scale is based on the actual fees payable in each grade of education in the dictrict, i.e. in the different classes in the primary and junior secondary schools. School meals, incidentals and boarding fees are also allowable deductions. In the case of higher education, the taxpayer must produce proof of actual payment of fees. In every case the value of any bursaries awarded to the taxpayer's children is discounted against the deductions.

Assessments are made by assessment committees working on a sub-county basis. The chairman of the committee is the parish chief of the parish in the sub-county being assessed. Two members are elected by the sub-county council; they serve in every parish throughout the whole sub-county. The sub-county chief of the area usually tries to be present at as many meetings as he can of the tax assessment committees in his sub-county.

The assessment committees are assisted in their work by tax officers – where funds have permitted such officers to be appointed. These posts were first created in 1959, when the new assessment scheme was evolved as a result of the disturbances in that year. The aim of the council is that eventually one officer be posted to each county in the district. At the present time these tax officers are responsible for ensuring that assessments are carried out in accordance with the directions of the District Council and that as much uniformity in assessment as possible is achieved, – at least within any one county.

The tax assessment committees start their work in October every year. The aim is to get all assessments completed by the end of November. This allows time for appeals, if any, so that when the new year starts all taxpayers know for certain what taxes they have to pay. All taxpayers in the parish are given due warning of meetings of the assessment committee. They are required to appear in person before the committee, or else eventually – as will be described – they must accept the tax imposed on them in their absence. A form has to be filled in in respect of each individual taxpayer, giving full particulars of his income and of his allowable expenses. In the case of the ordinary peasant the form is filled in in his presence by the tax officer before the assessment committee. Salaried employees, such as schoolteachers, usually fill in the form beforehand.

At the assessment committee meeting, any information given by the taxpayer as to his income (such as the number of cattle he has exported in the year) can be queried by the members of the committee, by the tax officer, or the local chiefs present. The assessment committee after hearing all the arguments comes to a decision regarding the taxpayer's true income, or what income should correctly be imputed to him as income. The figure of the total *taxable* income is then calculated, and from this the rate of tax payable by the taxpayer.

In the sub-county tax register opposite the taxpayer's name are then entered details of the separate sums which make up his total income, his allowable deductions, the resulting total taxable income, and the tax payable on that income. The tax officer must initial each entry in the register. Persons who are absent from the first meeting of the assessment committee in their parish must attend any further later meeting which in the circumstances may have to be called. If a taxpayer is again absent at the second meeting he is then liable to be assessed in his absence.

The District Councils Ordinance provides certain rights of appeal both for the taxpayer and for the county chief of the county in which the taxpayer resides. The county chief has the power to appeal should he consider that the amount of tax which the taxpayer has been called upon to pay is too little. Appeals must be made within thirty days of assessment to the county appeal committee. This committee has powers not only to reduce the tax, but also to increase it.

In the case of Teso the membership of county appeal committees is as follows:

Chairman: The county judge

Members: Two county court members to be selected by the county court.

Taxpayers must appear before the appeal committees in person. Members of the original assessing committee, the county tax officers concerned and the local chiefs must also be present. The Ordinance does not provide for any further appeal beyond that to the county appeal committee.

The overall number of appeals throughout the district is few in relation to the number of assessments. It occasionally happens, however, that in one particular sub-county appeals may be many, if, for example, the assessment committee should be functioning arbitrarily or in a biased manner.

Future policy over assessments

In due course of time throughout Uganda both assessment committees and appeal committees should be official bodies, and the formal assessment of taxes should be an official matter as it is in most parts of the world. In Teso, however, as in most other districts it is considered too early yet to introduce this step, as it would tend to make assessments less 'popular'.

It is hoped that in the future assessments will be based more and more on actual income, and less on imputed income. To further this, and to ensure greater efficiency in carrying out assessments, it is hoped that the Teso District Council will appoint tax officers on a county basis, and that during the offseason, between the annual assessments, these officers will go round each parish and village area and check on the particulars given by the taxpayers in their individual tax forms. In this way the tax officers would build up a valuable dossier of information on the incomes of all the taxpayers in their areas. It is hoped also that the tax officers will be made responsible for checking the accounting arrangements, for the collection of tax, and that they will generally assist the treasurer of the council and his staff in the capacity of local audit officers. Unfortunately, however, it must be recorded that there is a strong feeling within the council that assessments should be carried out unhindered by elected non-officials, and that tax officers should be abolished.

It is hoped also that the Teso District Council will concentrate in future years on ensuring that the wealthier members of the community are assessed properly in accordance with their wealth. In general it is too early yet to expect a progressive incidence of taxation to be introduced by district councils in Uganda (i.e. an incidence in which the proportion of tax paid *increases* as income rises), but at least the proportion of income taken in taxes should not *decrease* as income rises. Teso can however be said to have done better than many other councils in assessing the rich at adequate rates.

Exemption from the payment of tax

Statutorily exemption from Protectorate Government poll tax is only given by administrative officers; in the exercise of their powers, however, these officers now consider the advice given to them by the assessment committees on the exemption of individual taxpayers. Administrative officers will not grant exemption from Protectorate Government poll tax before a taxpayer is first exempted from his district council graduated tax.

Under the provisions of the District Councils Ordinance collectors (who at present are chiefs appointed by the council) are empowered, subject to the general or special directions of the Provincial Commissioner and the advice of their councils, to grant either partial or complete exemption to those taxpayers who are unable to pay the lowest graduated rate by reason of poverty arising from old age, infirmity or other good cause. It is to be noted that old age in

itself is not a ground for exemption of tax; a point which has been drawn specifically to the attention of all chiefs by the Teso District Council.

In the course of their usual meetings in each parish, assessment committees consider requests for partial or permanent exemption. Their advice is then passed on to the chief who is bound administratively to accept it and to grant the appropriate exemption. There is no right of appeal by a taxpayer against the decision of a chief in the matter.

The rate of partial tax levied at present by the Teso District Council is Shs. 21/-. In 1960, 2,639 taxpayers were partially exempted from tax, and 258 totally exempted.

Collection of taxes

By the end of any calendar year all taxpayers in the district should have been assessed; their particulars will have been entered in the tax registers, and they themselves will have been informed what amount of tax they are liable to pay.

On the 1st of January each year the tax falls due. Usually by this date the cotton season is well under way and the peasant farmers, who comprise the vast majority of the taxpaying population, have sold a considerable quantity of their cotton. They have therefore the ready cash with which to pay their taxes. In the first two months of the year the main task of the collectors (the chiefs) is to accept from the taxpayers any tax money they tender; this is brought in voluntarily to the chiefs' sub-county headquarters. In order to assist taxpayers, and ensure an early inflow of revenue when much money is in circulation, the sub-county chief accompanied by his poll-tax clerk and his minor chiefs will usually tour his sub-county several times during the first three months of the year, visiting all areas and collecting taxes from the people on the spot.

At the same time as the district council graduated tax is collected the sub-county chief will also collect the Shs. 6/- Protectorate Government poll tax. Little difficulty is experienced in collecting this tax as, at its present rate of Shs. 6/-, it is only a minor part of a taxpayer's total fiscal obligations.

As the months pass more and more persuasion is usually needed by the chiefs. Difficulties are often occasioned by taxpayers leaving the district after assessment to seek work in other areas; when they return it is usually found that they have paid taxes, often at a lower rate, in the district they have been visiting. The question of a refund between the two authorities concerned then arises.

If a taxpayer has not paid his taxes by the 1st July, he is statutorily deemed to be wilfully in default. The legal remedy which the district council then has is to sue the defaulting taxpayer for the tax in court as a civil debt. The court has powers, in addition to ordering the defaulter to pay the tax due and the costs of the suit, to order him to pay a penalty not exceeding twice the amount of the rate of tax. There is no legal provision for sentencing defaulters to imprisonment.

The money collected in taxes is passed on by the sub-county chief to the county chief. He in turn passes the totals from his county to the district council treasury at the council headquarters where the cash is immediately banked and credited to the council's general revenue. The Protectorate Government poll tax is accounted for separately, and the revenue from this tax is usually passed direct by the county chief to the local treasury branch office of the Protectorate Government.

There is a tight system of check and counter-check on the control of the cash in the various stages it takes to reach the district council treasury. Little cash

is lost in transit in this way. The commonest way in which tax revenue is lost is by theft from the sub-county headquarters; nowadays, however, the district council has installed safes in all sub-county and county headquarters and the amount of cash that is lost in this way has been substantially reduced.

The councils' revenue from taxation

The financial year of the Protectorate Government and the African authorities in Uganda runs from the 1st July to the 30th June. Taxes are levied according to the calendar year. Therefore one tax year overlaps two financial years – the majority of taxes being collected in the period January to July in the second half of the financial year. In the 1960 tax year the total of graduated taxes collected amounted to £272,470. This sum was collected from a total of 107,770 persons who paid taxes. The average tax therefore works out at just over Shs. 50/- per taxpayer, and taking the total income per annum (including subsistence income, 1959 figures) of a person who has paid taxes in the district as £71, the incidence of the tax on this income is 3.5%.

The number of taxpayers who paid in the various grades in 1960 is set out in the table below:–

Rate of Tax	*Number of Taxpayers*
21/-	2,639
40/-	48,903
55/-	45,032
70/-	7,640
85/-	1,052
100/-	871
125/-	809
150/-	529
200/-	224
300/-	39
400/-	32
	107,770

Ten Years Local Government in Ghana

by A. F. Greenwood

Special Commissioner (Local Government)

In 1951, the first Local Government Ordinance was passed, followed in 1953 by an ordinance dealing specifically with municipal councils. Recently a new Local Government Act has been enacted which consolidates the law relating to local government in general and incorporates the amending legislation over the past ten years. It seems, therefore, a convenient time to note the major developments since 1951, to indicate the present position, and to examine the possibilities of future development. To one who was concerned in the legislation of 1951 and also of 1961 it is surprising how much has stood the test of time, but four of the changes since 1951 are selected as being significant.

The separation of traditional authority from local administration

The late Kwesi Plange, M.L.A., introducing the Local Government Bill in the Legislative Assembly in 1951, said:–

> 'the Government is giving the people a very great measure of control over their own local affairs. At the same time, by reserving one-third of the total membership of the new local authorities for representatives of state councils, the Government recognizes the valuable contribution they can make to the proper conduct of local . . . affairs.'

The principal of reserving one-third membership of the new local authorities for representatives appointed by state councils or other traditional authorities had its origin in the recommendations of a committee, under the chairmanship of the late Sir Henley Coussey, which submitted its report in 1949. The committee considered that the structure of society as it then existed should not be unduly disturbed and that the link with the past should be maintained. The link referred to was the system of native authorities, responsible at that time for local government administration, whose members were not democratically elected by the people, but were nominated by the chief and his council. A further reason put forward was that the experience of traditional representatives in local administration, whilst serving as members of these authorities, was necessary to guide the new councils. In the period since the passing of the first Local Government Ordinance local authorities have grown up, the elected members have learnt in the hard school of experience, and the principle of responsible and wholly elected bodies has been enshrined in the Constitution. In these circumstances the reasons given by the Coussey Committee in recommending that one-third of the membership of local authorities should be reserved for traditional representatives, although sound in 1949, no longer had the same validity. Accordingly, the proportion of traditional members was progressively reduced, and now local authorities are wholly elected bodies.

The diversity of rates

The 1951 Ordinance obliged the local authorities to impose a basic rate or poll tax, but authorized them in addition to impose other forms of taxation, namely, a graduated form of tax based upon the taxpayer's ability to pay; special rates; a tax upon possessions; and a rate based upon the ownership of

immovable property. The basic rate has long been regarded as an archaic and outmoded form of taxation because of its obvious limitations. Since every adult person is liable to pay, the rate must be small enough for the poorest sections of the community to meet without undue hardship but, on the other hand, the richer elements in the community are not required to pay more in accordance with their means.

In an endeavour to overcome this difficulty a number of local authorities introduced a simple form of graduated rating which took two forms based in theory upon the payment of one per cent. of assessed income, subject to a limit of £5 for incomes over £500 per annum. In actual operation the council's assessment committee consulted the nominal rolls of ratepayers, and from their personal local knowledge determined how much each should pay. It is obvious, however, that this system also has its limitations. It depends upon the assessment committee having personal knowledge of the financial circumstances of all potential ratepayers and, furthermore, if developed beyond a certain scale would impinge on the national income tax system. It is appropriate in a simple village society and is still retained in certain rural areas. More encouraging, however, is the increasing use made of the special rate. It is more flexible than the basic rate and is adopted where one part of a council area is receiving services which are not enjoyed in other parts, as for example, to finance the construction or maintenance of a local road, build a school for which there is a specific local demand, or to provide water supplies. It may be argued that so long as it is necessary to retain the basic rate it should be related to the amount required for services enjoyed equally by all ratepayers, and special rates imposed in addition on those areas where services over and above the common minimum have been provided. If this were done, it would go far to meeting the common complaint that although the basic rate is paid throughout a council area, some parts are given services and others neglected.

Perhaps, however, the most significant development has been the adoption of property rating by urban councils and by rural councils containing urban communities of some size. A system of property rating had been operating in the municipal areas since 1943, but in 1954 a simple form of rating on immovable property was devised by the Chief Valuer of the Government Lands Department which could be applied in the smaller urban communities. It was in fact adopted in seven urban areas during the next two years, but then its development was retarded because of a shortage of qualified personnel to train officers in the new valuation methods. In 1957 a valuation expert, Dr. John Murray of the United Nations Technical Assistance Organization, visited Ghana to advise on property rating. His report confirmed the basis of valuation originally introduced in 1954 and recommended the adoption of the same principles for municipal valuation. Dr. Murray was followed in 1958 by Mr. V. L. Brett, also a United Nations valuation expert, under whose guidance a team of sixty officers has been trained, who are now able to concentrate on the valuation of premises in communities where property rating is particularly appropriate. Property valuation for rating purposes has become a central government responsibility. The great advantage of the system is its simplicity. It is becoming increasingly popular and its further development is only limited by the number of valuers available to assess the properties. In considering forms of rating generally it is to be noted that the Local Government Act of 1961 does not contain a provision requiring a local authority to impose a basic rate.

It now becomes an optional form of rating, along with the others previously mentioned.

The reduction in the number of authorities and the abolition of the 'tier' system

The local authorities came into being as a result of the Local Government Ordinance 1951, and were established with all possible speed. There was no time for detailed consideration of the factors to be taken into account in determining the optimum size of councils and accordingly they were based in general on existing native authority areas. Two main types of councils outside the municipal areas were set up. In the first category were district councils intended to carry out major services, such as police, road maintenance and medical services, and to undertake large-scale projects. In the second category were local and urban councils which were to perform more local services such as primary education, sanitation, local courts, and markets.

In this rapid establishment of local government many units were set up which were not only small in area and resources but also in population. In the north eight councils had less than 5,000 inhabitants, and there were thirty-four between 5,000 and 10,000. In Ashanti there were more small councils than in any other part of the country. For a population of 740,000, there were eighty-three local and urban councils (twenty under 5,000 and thirty-one between 5,000 and 10,000), and ten district councils. The largest local council had a population of 23,000. In another region there were seven local councils with populations under 10,000, and five district councils.

In November 1956 the Government set up a commission (known as the Greenwood Commission) which, *inter alia*, was required to enquire and report upon the structure of local government with a view to a reduction in the number of local authorities. The Commission reported in June 1957 that not only were there many small ineffective units but also that the 'two tier' system, that is district councils and local and urban councils, had not proved successful. The district councils were not themselves authorized to levy rates and therefore were obliged to call upon the local councils, by 'precepting', for money to carry out their functions. The process of precepting was never fully understood and in some cases the amount of the precept was more than the local council could raise by its basic rate collection. In these circumstances some of the smaller local councils were only being kept alive by grants which they received from the central Government.

Faced with these two major problems, that is the large number of local councils with insufficient financial resources to justify separate existence, and the burden of the district council administration, the Commission made two main recommendations. In the first place it recommended that district councils be abolished, and secondly that existing local councils be regrouped by amalgamations into units of adequate population and resources which would be responsible for all local government services in their areas. The Government accepted the main principles of this Report (sometimes referred to as the Greenwood Report) and they were implemented during 1958-60.

The withdrawal of government agents from the field

District commissioners (later called government agents in Ghana) never had any specific statutory duties under the Local Government Ordinance. Supervision of local authorities was, however, a recognized part of their duties, and in carrying out those duties they were directly responsible to chief regional

officers – who were also civil servants and themselves the successors to the chief commissioners under the colonial system. As part of the constitutional changes after independence, chief regional officers were replaced by regional commissioners (members of the Government with the rank of minister), and government agents were withdrawn from the field to regional headquarters. The title of 'government agent' has now ceased to exist. To replace the government agents in the field the Government appointed a body of men and women who were not civil servants and for them the title of 'district commissioner' was reintroduced. District commissioners, like their predecessors, have no statutory powers under the Local Government Act, but are similarly charged with the general supervision of local authorities. Alongside the district commissioners a local government inspectorate system is in the process of being established. In each regional headquarters one administrative officer is exclusively concerned with local government matters and responsible for inspection teams. A team consists of one senior executive officer and one clerical officer, and each team is to be responsible for three or four local authorities. Their duties may be summarized thus:–

(*a*) To carry out a detailed check on the accounts to ensure that the requirements of the financial memoranda issued by the Minister are observed.

(*b*) To investigate the performance of the services.

(*c*) To ensure that the machinery of local government is working satisfactorily.

(*d*) To submit reports, in the first instance to the district commissioners.

The present structure of local government has one tier only, with four municipal councils, ten urban and fifty-five local councils. According to the new Local Government Act every council is established by instrument which, *inter alia*, defines its duties by reference to a comprehensive list to be found in the Act. It is possible by amendment to the instrument to withdraw certain functions or add further responsibilities. This flexibility is essential having regard to the varying economic and industrial potential of different areas; it also provides a convenient method whereby the central Government can entrust further powers to particular local authorities which by their performance have shown they can accept additional responsibilities. The competence of the local authority to do this depends on several factors, and three of these will be considered in relation to the future of local government in Ghana.

Administrative structure

The Minister of Local Government is responsible to the President and Parliament for general policy. The country is divided into eight regions, each in charge of a regional commissioner to whom certain local government functions are delegated by the Minister, including the power to approve councils' budgets, rates and by-laws. In the detailed supervision the regional commissioner is assisted by administrative officers, and by district commissioners who in turn will be assisted by the inspectorate.

As to the local authorities themselves, the municipal councils have a full range of qualified staff, and other councils have competent officers, who though not professionally qualified have received instruction in the local government residential training school, which has trained upwards of 1,000 officers since 1951. Before local authorities can assume greater responsibilities, the channels of communication, devolution of responsibility, and the administrative structure at the local level must be adequate for the task. This is so in Ghana.

Financial resources

The municipal councils have annual budgets ranging from £G82,000 to almost £G1,000,000, and the local and urban councils from £G30,000 to £G300,000. The government grant to local authorities amounts to approximately two-fifths of the authorities' recurrent expenditure and, in addition, from national sources varying amounts have been made available specifically for development projects. Last year the amount so made available was approximately £G1,250,000. In considering the extent to which local authorities are financially capable of accepting further tasks, however, one must have regard to economic conditions, which provide striking contrasts in different parts of the country. In cocoa-bearing, mining and timber areas the rate-raising capacity of the people is relatively high, whereas on the littoral where fishermen are at the mercy of the vagaries of the sea, and in the north, with long dry periods, a substantial return from rates is impracticable. Local authorities in general can make a substantial contribution to general development but their financial capacity has its limitations, and one cannot expect it to be uniform throughout the country.

Technical resources

In three regions of Southern Ghana the Government has established organizations known as Technical Advice Centres. Others will follow in due course. These centres include on their staff engineers and architects whose main function is to give technical advice and assistance to, *inter alia*, local authorities. Type plans for various kinds of premises required by councils have been produced and specific plans for other constructional works, including roads and bridges, are drawn up as necessary. Very few rural authorities could afford to engage professionally qualified staff, nor would they be justified in doing so, having regard to the amount of constructional work undertaken for which professional services are necessary. The Technical Advice Centres are designed to meet this situation.

A number of rural local authorities have established works organizations, with workshops, basic machinery, and vehicles, in charge of a works foreman. They are used for the construction and maintenance of councils' buildings, the construction and maintenance of roads, drainage, water supplies and in various other council activities. In a number of instances they have undertaken maintenance, on an agency basis, of roads which still remain the responsibility of the central Government. It is the policy of the Minister responsible for local government to encourage other councils to establish these organizations. Municipal councils, of course, present a different picture because they have professionally qualified staff in charge of their works departments and can undertake a wide range of development works. It may be said therefore that the development of local authorities' technical resources is encouraging.

Local government in developing countries cannot be judged by standards of old established nations where an efficient local authority is one which demonstrates its ability to tend a well organized machine. Here one must recognize that the work of a local authority has not only a local but a national significance. In regard to the first of these it must be made manifest to the ratepayer that he is getting value for money in order to encourage him to pay his rates. He is not impressed by the amount of money which must be spent on salaries and administration, and looks for two things. He expects to see the basic services of local authorities, such as refuse disposal and road maintenance,

carried out with reasonable efficiency, and secondly, which is more important, he wants to see concrete results in the shape of more sanitary conveniences, more roads and more pipe-borne water supplies. That is the local significance of 'development'. On the national level the central Government in creating a modern state is determined to accomplish in a few years what other countries accomplished in a hundred years. It looks to local government to shoulder part of this burden, and if local government is equal to the task the process can be accelerated. The success of local government in Ghana, therefore, depends on the ability of the local authorities to undertake this dual role.

If the present enthusiasm on the part of councillors and staff is maintained, and if the central Government assists local authorities as it has done in the past, there is no reason why it should not succeed.

Some Aspects of the Drafting and Revision of Native Local Government Council Rules

by C. J. LYNCH

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The local government system

The Native Local Government Council system in the Territory of Papua and New Guinea is just over 11 years old. The first councils were established in September, 1950. At present (December, 1960), there are 41 councils, embracing a population of approximately 300,000 of the 2,000,000 natives of the Territory (including the 'restricted' or 'uncontrolled' area). The tempo of the movement is constantly accelerating, as is shown by the fact that whereas from 1950 to 1955 (inclusive) 10 councils in all were established, in the first eleven months of 1960 alone twelve more were set up. The basic limiting factor is, as everywhere, the lack of sufficient supervising staff. As a matter of interest, the estimated tax revenue of all councils for 1961 is approximately £155,000.

The task of surveying likely areas and of establishing, supervising and guiding councils falls on the Local Government Branch of the Department of Native Affairs, supplemented by the work of other more specialized departments, such as the Department of Agriculture, Stock and Fisheries.

One difference between native local government in Papua and New Guinea and in some other places is that it is completely an imported product. There were no similar indigenous authorities, although attempts were made in the 1930's in some places to introduce unofficial councils, and little sign of traditional leadership in the sense of a chiefly or priestly class. While prior to 1950 there had been, and in non-council areas there still is, a rather half-hearted attempt at a type of "indirect rule" through Government-appointed village officials, the council movement was basically the first attempt to integrate the masses of the people into the governmental machine. Its beginnings were therefore understandably tentative and experimental.

While these factors meant that we had no firm foundation upon which to start, they also had the advantages that there was little or nothing in the way of organized traditional opposition to the new movement, and little in the way of ingrained traditional attitudes and procedures to be overcome. The little opposition offered has been mainly localized and spasmodic. Thus, for example, it has been possible to use semi-parliamentary procedure from the beginning, and preferential voting is the accepted practice in elections.

The legal background

It is not my intention to describe the overall workings of the council system, but to deal briefly with one facet of it, the drafting and revision of council rules, and some of the legal difficulties peculiarly associated with them. But, before so doing, it is essential to give an outline of the legislative background to the rule-making power, and the restrictions, both explicit and implicit, placed on it.

Councils are established by proclamation by the Administrator under the Native Local Government Councils Ordinance, 1949-1960, which defines their

powers and functions. Incidentally, power to legislate for the formation of councils was conferred by section 26 of the Papua and New Guinea Act, 1949, of the Commonwealth of Australia (the Territory's constituent Act), but in relation to the functions of councils section 29 of that Act merely provides that a council 'shall have such functions as are provided by Ordinance in relation to the peace, order and welfare of natives in the area for which it is established'. The provisions of the Ordinance dealing with the substantive powers, functions and duties of councils are basically contained in sections 6, 10, 11, 12 and 19 of the Ordinance.

Section 6(1) is a very general provision, stating that a council shall have such powers and authority as are provided for by the Ordinance, except that by subsection (3) the Administrator may by proclamation limit further the powers of a council. No use has been made of this provision, which was inserted obviously as a safe-guard.

Sub-section (2) is another curious provision, conferring upon a council such powers as it has by native custom, except insofar as that custom conflicts with a law in force in the Territory or is repugnant to the general principles of humanity. The possible significance of this provision will also appear later.

Section 10 provides for the duties of a council, which are; –

(*a*) to perform the duties and fulfil the obligations imposed upon it by the Ordinance or any other law in force in the Territory;

(*b*) subject to the laws of the Territory, generally to maintain peace, order and good government among the natives in its area; and

(*c*) to intervene for the purpose of preventing and, to the best of its ability, to prevent the commission by any native over whom it has authority of any offence against a law of the Territory.

Paragraph (*a*) would seem to be of little practical significance, but paragraphs (*b*) and (*c*) may well be of great importance, as may be seen when I come to deal with the rule-making powers of councils.

Section 11 relates to the general powers of a council, and under the section a council may; –

(*a*) organize, finance or engage in any business or enterprise;

(*b*) carry out any works for the benefit of the community in the area in and for which it is established; and

(*c*) provide, or co-operate with any department of the Administration of the Territory or other body in providing, any public or social service.

It would seem that the powers conferred, especially by paragraph (*a*), are limited by section 29 of the Papua and New Guinea Act : that is to say that their exercise must be directed to the peace, order and welfare of the natives of the council area.

Rule-making powers

Section 12 relates to the power of councils to make rules binding on the natives within its area. In general, the power is limited to rules which are 'not inconsistent with any law in force in the Territory' and, subject to that limitation, rules may be made 'for the peace, order and welfare' (the words of section 29 of the Papua and New Guinea Act) of the natives in its area, and in particular for seventeen specified subjects.

A rule must be reduced to writing in a language approved by a district officer, is subject to his approval, and is to be notified in the manner in which it is customary to transmit news or orders in the council area. It operates from

the date of notification or from such later date as is specified in the rule. A monthly return by the district officer to the Director of Native Affairs of all rules approved, not approved or revoked by the district officer is required.

It is through the supervisory control vested in district officers that the Administration's legal staff come into the picture. The practice is that where a district officer has doubts about a rule he refers it to Native Affairs headquarters which, if it has doubts as to the validity of a rule, or wishes advice on it, will refer it in turn to the Department of Law. Within that department there is a specialized legislative drafting section, which comments and advises on rules as a normal and integral part of its functions to draft, and advise on, proposed legislation for the Administrator and the departments of the Administration.

The formal reference of rules to the Law Department is a comparatively recent development, as in the early days of the council system the Senior Native Authorities Officer and I, as the draftsman, had an extremely informal arrangement whereby I would, quite unofficially, have a chance to look at rules made, and it was only on an off-the-record hint that something was decidedly very wrong that a rule would come officially under legal scrutiny. In the early, experimental stages, this was probably a good thing, as the essential needs clearly were to get the organization going and to establish acceptable procedures, rather than to legislate. It had two incidental advantages, also, I think ; firstly, it may have persuaded some members of the field staff that law is not necessarily narrow or pedantic, and can materially assist field administration; and secondly it certainly taught me that even in legislative drafting the draftsman's inevitable (and proper) demand for legislative precision must sometimes give way to the overriding necessity for communicability.

The main point, from the specifically legal point of view, which the legal authorities have to consider in advising on a rule (as in the case of any subordinate legislation, wherever originating) is whether the rule may validly be made, and it is to this aspect that I now propose to turn.

As stated earlier, section 12 of the Ordinance provides power to make rules, not inconsistent with any law in force in the Territory, for the peace, order and welfare of the natives of a council area and in particular on a heterogeneous collection of subject matters. Although the expression 'for the peace, order and welfare' is an extremely broad one, there are two points at which its generality may be limited.

The first is that, by the terms of the Ordinance itself, rules cannot be inconsistent with any law in force in the Territory, and the second is any limitation implied by the very nature of councils and of their basic functions.

The question of inconsistency and invalidity is not one which is capable of formulation in precise, general terms. This is one of the more difficult spheres of legal interpretation and a conflict of opinions can quite readily arise. It is particularly true in the present case, since rules must be consistent, not with any statute in force, but with any law in force, and the precise status of a council rule in comparison with a rule of the common law is not easy to determine *a priori*. I suggest that it may well be desirable for the provision to be restricted to the statutory law.

Inconsistency of rules

However, turning to the question of inconsistency, it has been held that "when a statute says that its provisions are to obtain as regards its subject-matter, except so far as they be 'inconsistent' with a previous statute, the incon-

sistency connoted must be one 'so at variance with the machinery and procedure indicated by the previous Act that, if that obligation were added, the machinery of the previous Act would not work'."[1] In other words, broadly speaking if the two can be given effect to together, there is no inconsistency. This sounds fairly simple, but in practice it is a great deal more complicated than appears at first sight.

To give an example, the Territory Roads Maintenance Ordinance provides amongst other things for a district officer to allocate to native communities the maintenance of various tracks. It also makes other provisions to which I shall refer later, but for the purposes of illustration I intend to ignore them. It has been proposed on occasion that these provisions should be amplified by a council rule empowering the detailed regulation of the method of carrying out the district officer's order in the community in question. In so far as that rule does not in any way interfere with the functions of the district officer, but really provides machinery for the more effective carrying out of his orders, it would seem to be inconsistent with the Roads Maintenance Ordinance. If, however, we look at the matter in another light, further difficulties arise.

In relation to ordinances, where a subsequent ordinance is inconsistent with an earlier ordinance there is an implied repeal of the latter. It would seem that considerations which bear on this situation would also relate to council rules.

Now, assuming that we have an ordinance providing for road maintenance work to be done by individuals as ordered by a district officer, further assume that a subsequent ordinance provides for a district officer to give such orders to communities. It would seem reasonably clear that the second ordinance would impliedly supersede and hence repeal the first, but, if this is so, it is so on the ground of inconsistency. Logically therefore, the proposed council rule would appear to be equally inconsistent with the Roads Maintenance Ordinance as I have described it.

I am merely giving this as an example of some of the difficulties which we strike, so as to explain why on some occasions a law department appears to be non-co-operative in regard to council rules. In this particular instance I think we have found a way out by means of an amendment to the Roads Maintenance Ordinance. However, it does illustrate what may be considered to be the somewhat unfortunate looseness of the rule-making power in section 12. Flexibility is, of course, all important, but in this case I think we have attempted to gain it at the expense of a great loss of precision and of vagueness in the power conferred, rather than to attain the necessary flexibility in the use of that power. But the Native Local Government Councils Ordinance was originally experimental in character, and there has been no basic revision, so this opinion, if correct, is probably an example of hindsight.

It is not only with respect to that specific limitation on the rule-making powers of a council that an unhappy amount of vagueness exists. There is also the question of the fundamental role of the council itself. Here again, there is a decided division of opinion. One opinion is that since we have used the term 'Local Government Council' we have in effect set up the equivalent of a municipal or shire council in Australia. The second is that we have done nothing of the sort, and that the ordinance merely establishes some sort of machinery for area administration.

[1] Stroud's Judicial Dictionary, 3rd Edition, page 1424, citing Fry, L. J., *Re Knight and Tabernacle Building Society*, 60 L.J.Q.B. 633.

Now, in determining the powers conferred by a statute and 'in deciding what may be done under statutory powers, courts of law will always take into consideration the object for which the statutory powers have been conferred. If the powers are conferred in order to enable a body of adventurers to construct works which although of public utility will or ought to yield to the constructors a lucrative return, those adventurers will always be compelled to confine their operations strictly to the purposes contemplated by the enabling statute; whereas if the powers are granted to some public body, like a corporation or council, solely to enable them to carry out some work of public utility or necessity, like making a new street or constructing a sewer, more latitude will be allowed in the exercise of the powers which have been granted'.[2]

It will be seen, therefore, that this question of the nature of the council system itself is a fundamental starting point in deciding any borderline case as to whether a rule is to be upheld or otherwise. On this point I can only give a personal opinion, since others with equal experience would most decidedly differ from me. However, my submission would be that in setting up the council system the ordinance was not merely importing into the Territory a foreign concept of local 'democratic' self-government, but that rightly or wrongly the framers of the ordinance were under the apprehension that they were providing a statutory basis for an existing indigenous administrative structure.

I do not believe that we are bound to imply into section 12 any limitation on the powers of councils by virtue of any real or imagined similarity with local government in Australia. This distinction is highly important. For example, one council recently wished to regulate bride-price. Now, this may or may not be for the peace, order and welfare of the people, but even assuming that it is, I doubt if any Australian court would hold that such general words would confer power on a mainland municipal council to regulate marriage custom even if that were not directly inconsistent with the general law. On the one view, this would automatically exclude the council from making such a rule. On the other, it would not necessarily do so at all, and the matter would have to be considered in relation to the questions of whether the rule could properly be considered to be for the welfare of the people and, if so, whether it conflicts directly with any other law in force.

I have probably given enough to illustrate the difficulties with which we are sometimes faced in determining validity in borderline cases, but there is one general point which I think should be made, which is that the general attitude of the courts is that a rule should be benevolently constructed and if possible upheld. As I see it, this means that my section should, if anything, err on the side of supporting a rule if the issue be forced. With a sympathetic attitude on both sides there should never be any necessity for such a position to arise.

Form and contents of rules

It is clear that, irrespective of how a legislative draftsman feels as a matter of technique, a rule must be drafted in language as simple as possible so that it can be fully understood by the people. Unfortunately, since the English language is what it is, this rule quite frequently leads to imprecision in the rule itself. Generally speaking, this is probably not particularly important, especially since we have come to an agreed formula in relation to the most controversial type of rule, that is, the tax rule. However, there is one aid to the drafting of rules

[2] Craies on Statute Law, 5th Edition, page 260.

of which we have been making increasing use; that is to preface the actual rule itself with a fairly long preamble setting out in non-technical terms the problem which we hope will be solved by the rule and the purposes of it. Quite often, this preamble can be so drafted that in itself it provides a sufficient description of the rule for the people that they need go no further to understand it; so we can make a greater use of technical and more precise language in the body of the rule itself. The formula used normally runs along some such lines as follows:–

> "Everyone knows that some fathers in the council area are demanding too high a bride-price and so young men are not getting married and the community suffers. The council has decided that this practice must stop and therefore has made a rule as follows:–".

This illustration, although not a particularly good one, may give the general idea.

Drafting in practice

From the practical point of view it is clearly better if a rule is firmly based on one of the specific heads of section 12 of the Ordinance and not on the general words "peace, order and welfare". I fancy that this can be done more frequently than might appear.

The first thing to do, of course, is to analyse the real nature of the problem, as distinct from the suggested method of solution. The other thing is that it might well be desirable to go some part of the way with the council, particularly if the difficulty is merely a technical legal one. In the last resort, there is always the hope of an enabling amendment to the Ordinance.

It is a part of the normal functioning of a legislative drafting section, as we see it here, not merely to draft to instructions, or to advise on the validity or otherwise of a specific proposal, but also to consider whether, if valid, the proposal can be improved as legislation or, if invalid, the same result can be obtained in a different way. This applies to proposals originating from departments as well as to council rules, although of course in the former case we are usually dealing with headquarters officers who should (but do not always) have a fairly good idea of the requirements of legislation. In other words, the approach which we have been trying to get across is not that we rule, *ex cathedra* as it were, in a semi-judicial way on validity or otherwise, but that, subject to our basic administrative and professional responsibilities, we regard ourselves as being instructed by councils, through their supervising officers and the Department of Native Affairs.

The picture, of course, is frequently cloudier than that, and on occasions we have to advise against a rule on what are practically policy grounds. As an instance of this we have advised against a rule to protect cacao groves by requiring pigs to be fenced at all times. We advised against that rule because we knew that it conflicted with the Department of Agriculture's policy on intensive pig-husbandry in this Territory, which had been overlooked. Happily, in this instance, the problem has been solved by requiring confinement during the night, with herding during the day, a solution which should have occurred to us much earlier. A second case of a slightly different type was one where a fairly young council attempted to cut the Gordian knot of the occupation (usually authorized by individuals) of native land in the council area by 'foreign' natives by a wholesale 'eviction order' type of rule, coupled with the imposition of other disabilities. Whether or not such a rule was valid, we had to advise that the social implications were such that we did not think the matter should be

handled by a council rule, and that in our opinion some other solution should be sought. Such instances are fortunately rare.

I should like now to refer to some examples of cases where we have, I think, been able to give positive assistance. In one case a council passed a rule providing for the compulsory registration of the ownership of land on which tree-crops were planted. That some such tenure conversion scheme is badly needed is certain, and on the face of it the rule provided at least a local solution. Unhappily for the rule, however, under the law of the Territory questions of land ownership and land registration are primarily the responsibility, at the present stage, of the Supreme Court and the central administration,[3] and we had to hold the rule invalid. However, we did work out an alternative scheme, which appeared to attain the same result, at least in the relatively short term, under which, firstly, tree crops were not to be planted except on land over which, by native custom, an individual had the sole right of user, and which was roughly surveyed and marked; we then provided for the registration of the ownership of the trees. Luckily, we could bring such a rule under some of the specific heads of the council's powers, and in practice, at this stage of development when shifting cultivation is necessarily the almost invariable rule for food-crops, we arrived, to all intents and purposes, at the practical result at which the council had aimed.

This case also illustrates some of the difficulties of administration (and legislation) in a country in which custom can vary enormously over only a few miles. The validity of the new rule had to hinge on the fact that by native custom in the area concerned land could be parcelled off to an individual, who had an exclusive right of user as long as he did in fact use it. This is not the case in other areas with the result that the same approach cannot be used.

As a second example, I referred earlier to the possibility of a council rule on road maintenance being *ultra vires* because of conflict with our Roads Maintenance Ordinance, and this in fact occurred. The proposed rule provided in substance that all persons must maintain roads and tracks; that councillors could allocate work to the individual members of communities; that councillors should make regular inspections and report to council contables[4] on failures to perform the work allocated; and that constables should bring persons so complained of before a court.

Without going into the technicalities of the matter, which were involved with my observations earlier in this article, we had to hold the rule to be invalid. However, after discussion, it was felt that possibly what the council needed at that stage (it was a fairly young council) was rather to be given some share in the responsibility for road maintenance. To achieve this an alternative proposal was drafted which merely laid on a roads supervisor, or some such council employee, the duty to supervise the work directed under the Roads Maintenance Ordinance, and to report to the district officer any failure to comply with an order or direction to do maintenance work. As before it also provided for a council constable to take action against a defaulter.

A final illustration was a recent vagrancy rule, which required all able-bodied men and women in the council area to work their subsistence gardens, work cash crops or obtain other employment, with a provision that the onus of proof

[3] I understand that this is not the case with some of the native authorities and native courts in Africa.

[4] These are purely council officials and are not a part of the police force. In my opinion the title is a misnomer.

lay on the defendant. This reversal of the onus was clearly not justified under any provision of the Ordinance, although the problem was to prevent the growth of a group of basically idle young men who, if any of them was charged with being without means of support under the ordinary law, would almost certainly be able to raise, for the necessary period, sufficient funds from unwilling relatives by a judicious mixture of stand-over tactics and appeals to traditional obligations, however one-sided their own observance of those obligations. In addition, no power existed to compel a man to work.

Having discussed the matter with the presidents of the two most interested councils, and learnt the real problem, we re-considered the matter, and decided to rely on a provision specifically empowering a council to make rules requiring natives "to cultivate land to which they have title . . . [by native custom] . . . to such extent and with such crops as will secure a sufficient supply of food for their support and the support of those dependent upon them". Basing ourselves on this power, we drafted a rule which, in more or less technical language, provided that ;–

> 'An able-bodied man or woman in the council area shall cultivate his or her land to such an extent and with either traditional subsistence or cash crops as will secure a sufficient supply of food for himself or herself and his or her family (if any)'.

This, of course, went far beyond what was needed, or even desirable, and so we added a proviso along the following lines:–

> 'It is a defence to a charge of a contravention of the last preceding subrule that the man or woman charged was on the date in question in employment which, either alone or in conjunction with any supply obtained from land cultivated by him or her, will secure an adequate supply of food for himself or herself and his or her family'.

The new approach would, it seemed, go as far towards solving the real problem as legislation can, and seems to have been reasonably successful in practice. I am not here concerned to defend the content of the rules which I have used as examples, but only to illustrate one method of co-operation between the Legal and Native Affairs Departments.

Drafting and use of model rules

A further avenue of co-operation is the drafting and use of model rules. This system has not been in use in the Territory to the extent which one would wish, although when a rule of general interest is cleared it is customary to include it in the Native Local Government Bulletin, an official roneod periodical circulating among local government officers and councils. However, eight or ten of the more common rules have been so settled, in particular, after a fair amount of court trouble, the tax rule. Lack of adequate staff has been the main reason, but we hope that this position is about to be remedied.

From the drafting point of view, the use of model rules, even if they have to be fairly heavily adapted to fit local circumstances, has the very great advantage that we can study and settle the rule before it is made, rather than try to withdraw it for technical reasons after it has been passed by the council. Owing to the pressure of work on councils and field staff, it happens all too frequently that doubtful rules are actually in force before we review them. Someone then has to attempt to balance the claims of legal validity and precision on the one hand with the undesirability of apparent *ex post facto* inter-

ference with the carrying-out of council responsibilities on the other, an attempt which usually satisfies neither party.

Conflict of rules and other laws

The last aspect of the council rule-making power to which I want to refer concerns some recent developments, which have not yet had time to work themselves out in practice. One facet of the problem of inconsistency between council rules and other laws is that there are some fields in which the general law is so wide-reaching as to make it doubtful whether conflict does or does not arise, if not legally, then at least administratively. An example is hygiene and sanitation where, although *prima facie* councils have jurisdiction, there are general ordinances and regulations applying throughout the Territory, and a territory-wide system of health authorities to administer them. As these ordinances do not specifically refer to or except councils[5] it is difficult to see where the one lot of powers ends and the other begins. Two recent developments have attempted to provide a solution to this problem.

Firstly, the field administration in the Territory has largely been carried on through two sets of regulations, the Native Regulations of Papua and the Native Administration Regulations of the Trust Territory, the whole concept of which dates from nineteenth century Papuan Administration. These regulations cover practically the whole field of administration, setting up special courts for native matters, creating a specifically native code of criminal law and providing a large range of detailed administrative powers and functions for district officers and village officials. These regulations had never been revised in the light of the new administrative system introduced with councils, and I think that there should be no necessity to stress their basic incompatability, unless amended, with the assumption of local administrative responsibilities by councils.

However, at the end of 1959 the Native Regulations and Native Administration Regulations were amended so as to vest in councils most of the minor directive functions of district officers to be exercised within council areas by rule, while the functions of village officials were transferred either to councils to be exercised by rule or to council constables. To obviate conflicts and also to supply a degree of supervision, it was provided that the powers of district officers would remain vested in them, more or less as reserve powers, so that where in any particular case the exercise of a power by a council conflicted with its exercise by a district officer, or the exercise of a power by a council constable conflicted with its exercise by a council, the power of the district officer or the council, as the case required, should prevail.

Little use seems to have been made of these amendments, possibly because on the face of them they are not particularly clear, although I have used them on a few occasions to support rules drafted with apparently no attention to the new powers. One point should be stressed, which is that no magisterial or quasi-magisterial powers are involved in the transfer.

The second development has to some extent proved abortive. I have referred earlier to the relationship between council rules and our Roads Maintenance Ordinance. In an attempt to solve the deadlock, in February, 1960, the territorial Legislative Council passed an amending ordinance, the relevant sections of which provided, firstly, specific power for a council to enter into a contract

[5] This is one aspect of the nature of the council system, originally experimental, which requires rectification. There has been little or no attempt to review Territory law as a whole with a view to integrating councils into its administration.

with the Administration for the maintenance of a road or track (in view of the general powers of councils this was probably unnecessary, but was inserted for greater caution), and, secondly, that a council could make rules 'regulating the carrying out of the responsibilities under . . . [the] . . . Ordinance of a native or native community under its jurisdiction'. The Ordinance was in fact disallowed by the Governor-General of the Commonwealth, on the advice of the Minister of State for Territories,[6] but the grounds on which it was disallowed do not seem to change the principles expressed in the amendment.

Briefly, these developments possibly foreshadow a greater incursion by councils, in both their legislative and their executive capacities, into fields at present reserved for central administrative agencies. If the experiments prove successful, it might be that the councils could take over, for example, in their areas, some of the statutory functions of local health authorities in relation to hygiene and sanitation. Such a development would certainly get over some of our drafting difficulties.

[6] The Australian Government, under the Papua and New Guinea Act, retains control of local administration, not only by its reserve power to pass Acts relating to the Territory, but also by a requirement of assent by the Governor-General or the Administrator, and a power of disallowance, within six months, of ordinances assented to by the Administrator. Although used comparatively rarely, these controls are far from dead letters.

Some Administrative Aspects of Community Development

by PETER DU SAUTOY

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Organization

There is often some dispute between administrators and community development workers as to the best form of organization of community development programmes; however, as a former administrative officer in the Overseas Service and as a former head of a specialist Community Development Department I have been on both sides of the fence, and now as a university lecturer I can comfortably sit upon it.

Some people may say that community development is merely a new method of carrying out the development aspects of administration in underdeveloped areas; others may prefer to see it as a separate field needing the services of a specialist government department. Whatever the manner in which responsibility for community development is allocated within the overall structure of government there is no doubt that community development needs good administration if it is to be effective.

There is a radical difference between community development and the more orthodox administrative approach to less developed communities; as is always emphasized by community development practitioners, community development works *with* people rather than *for* people, and seeks to stimulate their initiative and active participation in the programme. It is also a most useful means of marrying the priorities of the people with those of the planners within the broad framework of what is both possible and socially desirable. In other words it is a partnership between the initiative of the community and the services provided by the Government.

As community development deals with people it cannot be as administratively tidy as one would like; people are not always logical and do not act as the planners think they ought to. Nor do they divide their lives into the same neat bureaucratic compartments as a government organization.

Community development depends upon good personnel; good selection of staff, good training of staff and good organization to back up the staff in the field are of capital importance in community development. Where there is a question of budgetary priorities, preference should be given to investing the limited funds available in staff. Anyone can spend a million pounds; good staff can make sixpence do the work of a shilling and can tap latent human resources for self help.

Community development often attracts strong personalities into its service; their own individuality and their preoccupation with human relations and attitudes often obscure the fact that a great deal of solid administration is needed in community development programmes. Indeed, perhaps even more organization may be needed than for other programmes, since, if one is engaged in arousing popular enthusiasm, one cannot afford through faulty organization to break promises made to a community. Community enthusiasm must be efficiently supported by outside services, of the kind which purely local resources

cannot always provide. If these services are not available precisely when needed, enthusiasm will die, the people will complain of 'another government promise broken', and it will be much more difficult to arouse their interest in the future.

Nor should a community development programme be too dependent upon the personalities of individuals, however outstanding. An organization must be developed which can continue, even if not so well, when particular individuals depart. Community development should be pre-eminently the product of effective team work, which makes use of individuals' capacities as they may be needed, and should not be allowed to breed too many prima donnas.

It is the mark of any good administrator to know exactly where power lies. As community development cuts across so many lines of demarcation of official responsibility, following the community in its varied 'felt needs', it is essential that the programme should have the support of national leaders. A newly established community development programme will find it hard to survive in the polite gangsterdom of bureaucracy and of official vested interests unless it has support from the very top of the Government. The first task of the community development administrator is, therefore, to see that the head of the Government is convinced of the utility of a community development programme and is prepared to give it the fullest support. The second task is to organize the programme so efficiently that the hatchetmen of other government departments apparently competing in the rural development field can have little fault to find with it. It would be nice if there were no such competition, but this is unlikely in most governmental structures, and it is a fact which is ignored at one's peril. The aim should be to change the initial spirit of competition into one of co-operation. There is usually plenty of room for all in the development of rural areas.

In addition, co-ordination of community development activity with other services is vital at every level. Community development depends on other services for specialist help; unless there is full co-ordination and co-operation with those services right down to the village, community development is bound to fail.

Co-ordination at national level

At the national level the supreme co-ordinator is the head of the Government; at the village level it may be the multipurpose community development worker who represents the development contact of the Government with the people. It is in between these levels that co-ordination is most necessary; indeed, community development has been likened to a diamond with one point in the village and the other at the highest level of the Government. The broad middle is the district level, where perhaps co-ordination is the most difficult.

At national level the heads of services are near the centre of power; if that power is favourable to a community development programme, they are bound to have more stimulus to co-operate, however reluctantly. However, at field level, far from the centre, it is easy to find good reasons why co-operation is impossible and lack of co-operation is difficult to pin-point.

As regards the national level, however, not only is there discussion among those concerned with the subject as to whether community development should be the work of *all* departments working as a team or the prime responsibility of one department, but also there is much discussion as to which ministry should be responsible for community development when it is a special responsibility of one organization; there is considerable variation in the department respon-

sible for community development in the various countries with community development programmes. Indeed, community development is sometimes like a railway carriage, being unhooked and attached to a different engine as need arises. Much may depend upon the particular emphasis within the broad field of rural development which is being given to a community development programme at any one time.

It is probably dangerous to attach community development to too important a subject ministry like education or health. It may either become the poor relation of the ministry family or be too biased in its approach to communities in favour of the special field of its ministry. Nor is it very desirable to run community development by a committee of ministers as this diffuses responsibility and it may become nobody's baby.

It would be best if community development were the responsibility of a separate ministry of its own; if this is not possible then it might be attached to a 'neutral' ministry such as that responsible for social welfare to which other ministries are already in the habit of coming for advice. There is likely to be more reluctance on the part of a health ministry going to an agriculture ministry for assistance in community development, than to a separate or 'neutral' ministry.

At the civil service level a standing committee for co-ordination of community development activity between departments has disadvantages. Standing committees are not good executive bodies and there is a tendency to hold meetings for the sake of holding meetings and in order to show that the committee still exists. Moreover, the personnel of committees often changes and the individual membership may well be quite different at the end of a year, even though the same services are represented, so that there is not in fact the real continuity that the committee is intended to provide.

One possible method of co-ordination is to hold an *ad hoc* meeting of services likely to be concerned with the community development programme in the immediate future, to allocate responsibilities and tasks to be performed and to agree not to hold another meeting unless something goes wrong or a re-definition of function is needed. At the same time liaison officers could be appointed within the various departments who would take a special interest in community development as it affects their departments and would be in close touch with the Community Development Department, or with one another if there is no such department. They would know whom to approach in their own departments in case of difficulty and a community development department would have the advantage of dealing with one person only who would get to know its problems and needs. In other words one should lay responsibility for action upon individuals, who may consult one another informally as required, rather than upon a group in committee.

Relationships with other departments

Much education, of an informal type, needs to be done by the head of a community development department among his colleagues in other services, and it is essential also that he is always alive to the fact that jealousy rather than gratitude is a potent factor in official affairs. As a community development organization may be working for other departments in undertaking the initial work of extension education in their subjects, it is very necessary that those departments do not feel, at any level, that the community development organization is taking too much credit for success in their field or is empire building

at their expense. It is often a good rule for a community development department never to attempt any work (for example in health or agriculture) in another department's field unless it is specifically asked to do so. This may make for patchiness in field work, but it does achieve a greater harmony in official relations, which in the long run may be more important. Putting the other department's name in large letters on sign boards, even though they have had little to do with the actual project, and referring on all public occasions to the extension campaign being one conducted by the other department, even though their personnel are seldom seen, are two ways of maintaining other services' 'face' and prestige.

Before campaigning on behalf of another department the community development organization should work out with that department a clear definition of responsibilities. The other department is likely to be responsible for providing the technical information, for training community development staff in the special subject of the campaign, and for any service functions arising from the campaign such as selling fertilizer after an agricultural campaign. The Community Development Department will be responsible for putting the message across accurately and to carry the people to the point of conviction and, even more important, to action in accordance with that conviction. Community development field personnel are good at working with people; they are less good at keeping stores and accounts and selling fertilizer. It is much better not to place upon them any service functions of this kind, since otherwise they will be busier answering audit queries than stimulating enthusiasm among the people. Such functions are better performed by others who are specially fitted for that type of work.

Co-ordination at district level

The question next arises of how co-ordination is to be achieved at district level both with other services, including the district administration, and any local government authorities which may exist. Here, human relations are most important. No amount of direction from the centre will cause two feuding district officials to co-operate effectively. As the community development worker is an expert in human relations it is up to him to achieve good relations with his colleagues and not simply to complain that they will not co-operate with him. In addition, the community development worker at district level should have status equal to his colleagues in other services. If he is regarded as inferior in status there will be no real co-operation and he may well degenerate from collaborator to errand boy. It is an attractive proposition that, where a district administrator (under whatever title) exists, he should be in full charge of community development in his district, controlling all specialist workers, including community development workers, as members of a team. However, there are disadvantages in making the district administrator actively responsible for community development, as distinct from letting him have the general responsibility of ensuring that *all* government activity in his district is working efficiently.

Firstly, administrators are not normally chosen for their abilities in community development, and their interest and efficiency in community development may be very variable. Secondly, the person responsible for law and order is not necessarily the best person to stimulate the people to development. Putting members of a community in prison one day and exhorting them to self help the next do not go well together. Moreover, the district administrator is

often the product of a colonial regime. It is debatable whether his post will necessarily continue to exist or retain the same functions after the country's independence. It is, therefore, dangerous to attach a new service to the one official most likely to be the first to disappear. Finally, the district administrator is the product of poor communications. He is the man on the spot able to act for the distant central Government on his own authority. As countries develop towards independence they tend to place much greater emphasis on communications and on centralized authority. Both these factors may make the district administrator less necessary in his present form.

On the whole, it is probably better to have a separate departmental official responsible for community development activity in a district who will collaborate and co-ordinate his work with the district administrator and with other officials, but will be primarily and personally responsible for the success of the work.

Another authority to which community development might be attached is the local government authority. In theory, there is no reason why a local authority should not be responsible for the organization of community development in its area, especially as this is an institutional way of achieving consultation with the people's representatives as to the development needs of the area. However, unless local authorities are very strong, of a standard quality, and responsible for all other 'nation building' activities in their area, there are disadvantages to placing community development under local government authorities.

Local government often means local politics, and too much local politics is bad for any scheme designed to benefit the *whole* community; the official of a central government organization is often better able to hold himself aloof from local political pressures. In addition, local authorities, like district administrators, have regulatory and coercive powers which do not go well with community development.

Moreover, a local authority may not be able to achieve the co-ordination of all services in community development in the same way as a central government organization can. Nor are all local authorities usually of an even calibre; this will make for patchiness in the operation of a community development programme. In general, community development is a national movement and is sponsored by national leaders as a means of developing the whole country; it is likely to lose much of its drive and force if too much responsibility for its administration is left to local authorities and it may be much more difficult to achieve a uniform standard of selection and training of community development personnel.

Community development workers should, of course, co-operate fully with local authorities and, if possible, their areas of work should coincide with the local authority boundaries. The local authority should be encouraged to take an interest in community development as a means of developing the area, and should be willing to support structures erected through self help with recurrent finance. Community development can also build up a spirit of democratic self-reliance in the villages, which may percolate upwards to the authority in charge of the wider area. The community development worker may also act as educator in local government and make it plain that taxes are for the public benefit and do not automatically disappear into the pockets of the councillors and their officials. Community development can be very useful as a partner with local government, but it can be hampered if it is placed under local government.

Internal administration

So far I have written about the administrative relationships of a community development organization with other official organizations at central and field level. What of the internal administration of a community development department?

Firstly, the general rules and regulations of government must be considered. Many of them, such as making all purchases by public tender, may be inappropriate to a community development organization. However, the community development worker should not characterize all rules as 'red tape' and charge straight through them; he may spend the rest of his official career answering queries. It is safe to say that one must know one's rules very well before one can afford to break them. Usually some dispensation from the ordinary rules can be given to a community development department where a good case can be shown, and a *reductio ad absurdum* is often the best method of achieving this. I once personally obtained a relaxation of a 'write off' rule by proving conclusively that, under existing regulations, it cost about 5/- to write off 5d. worth of newspapers lost in the post.

The object of the internal administrator of a community development department is to give the maximum flexibility in their field work to the staff, while providing very firm direction on purely administrative and personnel matters for staff who may not have a flair for these subjects. Staff should know exactly what the internal hierarchy is, what disciplinary action will be taken for what offences, who is responsible for what, what are the prospects of training and promotion, how stores and finance should be handled, what reports and returns are required and when, and what finance they are likely to have to spend and for what purposes during the year. An itemized financial allocation sheet showing funds available to each out-station for the year is a great help to field officers in planning their work.

Once rules are made they should be retained for as long as possible. People can operate a system they are familiar with, even if it is not perfect; too frequent changes in the system in pursuit of perfection usually lead to chaos. Moreover, one can be too grandmotherly in financial matters, both by doling out money in small quantities from the centre, instead of letting out-stations decide on their expenditure pattern for themselves and by having too rigid a system to prevent fraud. Most governments seem to operate on the principle that their services are largely staffed with crooks, and the flexibility so necessary to community development can often be destroyed by too complicated financial procedures. There is no system in the world which will stop a crook getting away with money; however, the best systems catch him quickly.

The community development organization should be most interested in the results it achieves; if these are best achieved by greater latitude in the administrative system, this should be given, but such latitude should be closely linked to demonstrably greater efficiency and not merely given for its own sake to avoid work.

But it must never be forgotten that the real place of the community development worker is among the people and not behind a desk. If he is given an office he will sit in it; if he is allowed a typewriter he will write more instead of doing things. He will also demand a clerk to pound the typewriter, who in turn will require a messenger, who will need an assistant to sweep the floor, and so on. The mere fatigue of administering an ever expanding office will stop the community development worker being out among the people where he belongs.

Field workers can write simple reports on standard printed forms and write letters in longhand in duplicate books. The effort of doing this may at least keep down unnecessary paper. Administrative routine can be centralized at a higher level to keep the dead weight of office routine as far away from the field worker as possible. Field workers may, of course, complain about this lack of office amenities and feel that it destroys their prestige with other services which have such things. However, the acid test is whether their reputations grow among the people because they are out working with them. If this is so they can achieve more prestige in this way than by copying the system of other departments.

Transport

Transport is one of the most difficult problems for any community development organization. Staff is usually limited and has to cover a wide area; allocating money for transport allowances is like pouring it into a bottomless pit, and checking up on mileage claims takes up too long a time. It is as well to hand out a fixed sum for travel from the centre and it is up to the officer in charge of the local area to decide how best to spend it. If he doesn't do his work properly then he is disciplined; he will thus soon learn to plan his own itineraries and those of his subordinates within the limits of the finance available, and there will be less need of grandmotherly direction about travel from a higher level.

It is also important that junior field workers should use similar means of transport to those employed by the local people, such as the feet or a bicycle. This may mean slowness in getting round the area, but a complete psychological barrier may be erected between the village-level worker and the people if he arrives in the usual prestige symbol of the less developed countries, namely the motor car.

Records

Finally, some means are needed of evaluating work done. This is necessary to convince the sceptics that community development is not merely a charming figment of the enthusiasts' imagination and that it really pays dividends by stimulating self help. Some results of community development, such as the inculcation of community spirit and a sense of leadership, cannot be measured statistically. However, the lower cost of buildings constructed through self help compared with normal prevailing prices, statistics of class attendance, and sales of fertilizer after an agricultural campaign, to give a few examples, are all capable of measurement. The field worker will need to know what yardstick of evaluation is being used so that he can watch for this to check his own efforts. It may, however, be dangerous to inform him of a fixed target to be achieved as he may put undue pressure on the people in order to achieve an unrealistic target, when a little less pushing them from outside might have produced more lasting results. Rural people cannot be hurried too fast by outside agencies, and centrally fixed targets are nearly always too optimistic.

The field worker should also be provided with a simple form to fill in, preferably at quarterly intervals, and must be obliged to render it strictly on time. No great effort is required to fill in figures on a form and it is less easy to disguise a period of inactivity on a statistical form than in a narrative report. Field workers must also realize that delay in receiving one report can hold up and make out of date the figures for the whole organization. Accordingly

statistical returns promptly rendered from the field are one form of paper work which the field workers cannot be excused.

Community development is comparatively new as a specialist subject, although much of what it does has been done by others, under different titles, for generations. However, it will stand or fall by the way in which it is administered and the results which it achieves. It is up to orthodox administrators to give it a proper chance to succeed by sympathy towards its special problems and up to the community development practitioners to achieve the greatest possible administrative efficiency both within their own organization and in co-ordination with the other services of government.

International Technical Co-operation — I

Two years ago a glossary[1] with short notes described the chief functions of the various inter-government organizations which have been set up mostly since the war to promote economic and social development. The passage of time increases the number and ramifications of these bodies, yet their activities are hidden behind a vocabulary of capital letters which sound more euphonious than intelligible to the unlearned reader. The following notes, which incorporate much of what appeared in 1959 for ease of reference, bring their definitions up-to-date where necessary and include information about the structural organization of regional and Commonwealth agencies having similar aims. In our next issue we hope to describe the sources and types of aid available.

In many respects, the United Nations complex of organizations is the focal point of international consultation on economic matters. Other international organizations outside this complex are, with the exception of the Commonwealth organizations, mainly regional in character.

THE UNITED NATIONS

Organs of the United Nations

The United Nations is composed of six "principal organs": the Security Council, the General Assembly, the Trusteeship Council, the Economic and Social Council, the International Court of Justice, and the Secretariat. In the context of economic development, however, we are concerned primarily with the *Economic and Social Council*.

Economic and Social Council (**ECOSOC**)

The Council is responsible, in pursuance of Article 55 of the United Nations Charter, for promoting conditions of economic and social progress and development, the solution of international economic, social, health and related problems, international cultural and educational co-operation and universal respect for human rights. The Council is empowered to make or initiate studies or reports on these matters and to make recommendations concerning them to the General Assembly.

The Council exercises a supervisory rather than an executive function in that it is responsible for establishing an order of priority in the programmes of work of the regional Economic Commissions and for co-ordinating the work of the Specialized Agencies (see below). It receives regular reports from all the bodies mentioned below and is in fact the central co-ordinating mechanism for the supervision of all United Nations activity in the field of economic and social development. ECOSOC is responsible to the General Assembly (the Second

[1] *J.A.A.*, Vol. X, No. 4, 1959.

Committee of which deals with economic matters), and reports annually to that body.

The Regional Economic Commissions

ECOSOC has set up four regional Economic Commissions corresponding to the continents of Europe, Africa, Asia and Latin America. These are organs of the United Nations itself, and not of the Specialized Agencies.

The functions of all four Commissions are similar: they are to initiate and to participate in measures for facilitating concerted economic development, including its social aspects, the raising of the levels of economic activity and standards of living, and for maintaining and strengthening economic relations of countries and territories within the regions with which the Commissions are concerned, both among themselves and with other countries of the world. The Commissions may also prepare studies of economic and technological problems and disseminate information about such matters. Finally, the Commissions may provide such advisory services as the countries and territories of the regions may desire.

Participation in the work of these Commissions affords the under-developed countries of the world a valuable opportunity to exchange views and experience of common economic problems with neighbouring countries. Further, meetings at expert level help to foster a useful understanding between the countries and territories concerned.

The four regional Economic Commissions are:

Economic Commission for Asia and the Far East (**ECAFE**)

This was established in 1947. Most Asian countries, including the U.S.S.R. and Nationalist China (but not the Chinese Peoples Republic) are members, as are France, the Netherlands, the United Kingdom and the U.S.A. by virtue of their territorial responsibilities in the region. Associate members are Hong Kong, and Brunei; North Borneo and Sarawak have joint associate membership.

Economic Commission for Latin America (**ECLA**)

This came into being in 1948. All Latin American countries and the U.S.A. are members, as are France, the Netherlands and the United Kingdom, again by virtue of their territorial responsibilities in the region. Associate members are the Federation of the West Indies, British Guiana and British Honduras.

Economic Commission for Europe (**ECE**)

This dates from 1947. Most European countries (East and West) and the U.S.A. are members.

Economic Commission for Africa (**ECA**)

This was not set up until 1958. All African countries, together with Belgium, France, Portugal, Spain and the United Kingdom – by virtue of their territorial responsibilities in Africa – are members. Associate members are the Gambia, Kenya and Zanzibar, Ruanda Urundi, Uganda, the Federation of Rhodesia and Nyasaland and the High Commission Territories.

The Specialized Agencies

The Specialized Agencies have been described as "autonomous bodies having a sort of commonwealth relation to the United Nations itself".[2] ECOSOC is the intermediary between the Specialized Agencies and the United Nations. Each Agency submits an annual report to ECOSOC which is able to make recommendations for co-ordinating their policies and activities.

The purpose of the Specialized Agencies is to improve economic, social and cultural conditions throughout the world. There are twelve Agencies. One or two of these existed before the establishment of the United Nations Organization itself, such as the International Labour Organization. Each Agency has been brought into relationship with the United Nations under Articles 57 and 63 of the United Nations Charter. Through these Agencies, assistance is rendered by the more developed countries to the less developed by the provision of experts to give technical advice, the training of personnel from less developed countries in developed countries, and the provision on a small scale of demonstration and training in the less developed countries.

Food and Agriculture Organization (**FAO**)

The Organization came into being in 1945 and its headquarters are in Rome. It works through a biennial conference of all member governments. There is also a council of twenty-four members which meets between sessions of the conference, and numerous committees. Regional conferences are held every two or three years.

The purposes of FAO are to raise levels of nutrition and standards of living, to secure greater efficiency in production and distribution of food and of agricultural and fishery products, to better the conditions of rural populations, and by these means to contribute to an expanding world economy. Its headquarters are organized into seven technical divisions which are responsible, among other things, for the greater part of the technical assistance programme undertaken by FAO, and three economic divisions, responsible for servicing the Committee on Commodity Problems (CCP) which reviews development and trends in international trade in agricultural commodities. Study groups have been established under CCP to study developments affecting individual commodities. These concern cocoa, rice, grains and coconuts.

FAO also maintains five regional offices; at Washington for North America, at Cairo for the Near East, at Bangkok for Asia and the Far East, at Santiago for Latin America and at Accra for Africa.

World Health Organization (**WHO**)

WHO came into being in 1948, and has its headquarters in Geneva. It functions through an assembly and an executive board, and the planning and approval of technical assistance has devolved on six regional directors: in New Delhi for South-East Asia, in Alexandria for the Eastern Mediterranean, in Manila for the Western Pacific, in Washington (where the Pan-American Sanitary Bureau is also the regional office for the Americas), in Brazzaville for Africa South of the Sahara, and in Copenhagen for Europe.

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[2] *United Nations Technical Assistance; Federation of British Industries Report:* 1955, p. 10.

WHO's objective is "the attainment by all peoples of the highest possible level of health"[3] defined as a "state of complete physical, mental and social well-being and not merely the absence of disease or infirmity". It is concerned with the control of epidemics (International Sanitary Regulations), the promotion of curative and preventative medicine including the world-wide eradication of malaria and smallpox, practical aid in the form of short-term projects for local control of disease, demonstration and training projects and advice on local public health problems. Its assistance programmes are designed to provide technical services in the form of expert advice, field operations and demonstration teams, and not to furnish capital equipment or supplies except in so far as they form part of the technical service, such as equipment required by the expert to carry out his assignment, or essential to the establishment of training and research centres.

United Nations Educational Scientific and Cultural Organization (**UNESCO**)

UNESCO dates from 1946. Its headquarters are in Paris and there is no regional organization. It works through a general conference of all members and an executive board elected by the general conference. Its purpose is "to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, the rule of law and for the human rights and fundamental freedoms which are affirmed for the peoples of the world without distinction of race, sex, language or religion by the Charter of the United Nations".[4] The approach is through:

(1) education both formal and out-of-school, the latter designed to help the uneducated and illiterate to solve the problems of their immediate environment and to improve their standards of living;
(2) research into the natural sciences: promoting international co-operation and the social sciences: encouraging new studies to discover the causes of tension and the means of removing them;
(3) cultural activities to make the arts and literature available to all mankind;
(4) mass communications: assisting the press, films, radio and television to produce an intelligent and informed body of opinion.

International Labour Organization (**ILO**)

ILO was founded in 1919 and in 1946 it entered into an agreement with the United Nations. Its headquarters are in Geneva. The purpose of ILO is to improve labour conditions throughout the world by formulating international labour standards and supervising their application to member states of the Organization, including their dependent territories. Its machinery includes:

(1) the International Labour Conference, which is the supreme authority of the Organization and consists (as do all the representative bodies of ILO) of tripartite delegations from member states; that is to say, delegates representing respectively government, employers and workers. The conference adopts international instruments (conventions and recommendations) formulating labour standards. Decisions of the conference are not automatically binding upon governments, which have to decide

[3] WHO Constitution.
[4] UNESCO Constitution.

independently whether or not to ratify conventions and to apply them to their dependent territories;

(2) the International Labour Office, which acts as the secretariat, provides governments with expert advice and technical assistance in matters connected with labour and social policy;

(3) field offices which advise governments in their areas on technical assistance within the ILO sphere. Field offices are maintained at Lima, Istanbul, Bangalore, Mexico City and Lagos.

International Civil Aviation Organization (**ICAO**)

ICAO was established in 1947, with headquarters in Montreal. Its purpose is to study problems of international civil aviation and to establish international standards and regulations for civil aviation. One of its most important functions is the encouragement of the use of safety measures.

Universal Postal Union (**UPU**)

UPU dates from as far back as 1875. Its headquarters are in Berne. The aim of UPU is to secure the organization and improvement of postal services and to promote international collaboration in this field. To this end members of the Union are united in a single postal territory for the reciprocal exchange of mail.

International Telecommunications Union (**ITU**)

ITU was established in 1865, originally as the International Telegraph Union; its present constitution was adopted in 1952 and its headquarters are in Geneva. Its purpose is to draw up international regulations for telegraph, telephone and radio services in order to further their development and to extend their use by the public at the lowest possible rates.

World Meteorological Organization (**WMO**)

WMO dates from 1950, and has its headquarters in Geneva. Its purpose is to provide machinery for the universal co-ordination of information relating to weather, and forecasting and research in this field.

Inter-governmental Maritime Consultative Organization (**IMCO**)

IMCO was established in 1959 and has its headquarters in London. Its objects are to provide machinery for co-ordination among governments in the field of regulation and practices relating to technical matters, including those concerning safety at sea, and to encourage the removal of discriminatory action and unnecessary restrictions by governments and shipping concerns.

The International Bank for Reconstruction and Development (**IBRD**)
International Development Association (**IDA**)
International Finance Corporation (**IFC**)

The International Bank provides loans towards the external costs of specific projects of an economic nature which are designed to contribute directly to productive capacity.

The International Development Association (IDA) was established in September, 1960, as an affiliate of the IBRD to provide loans on more liberal terms of payment than the Bank.

IFC is also affiliated to the International Bank and invests "in productive private enterprises in association with private investors who can provide competent management" – in contrast to the Bank which lends only to governments or under government guarantee. IFC is mainly concerned with industry.

IBRD, IDA, and IFC will be dealt with in greater detail in a later article. They all operate from Washington.

International Monetary Fund (**IMF**)

IMF is "essentially two things. It is, as the name says, a fund or stock of money put up by members who are assigned a quota; and it is also a set of rules to which members promise to conform in matters relating to foreign exchange".[5] Its headquarters are in Washington. Its objects include the following:–

(1) to promote exchange stability, to maintain orderly exchange arrangements among members and to avoid competitive exchange depreciation;
(2) to assist in the establishment of a multilateral system of payment in respect of currency transactions between members and in the elimination of foreign exchange restrictions which hamper the growth of world trade;
(3) to give confidence to members by making the Fund's resources available to them under adequate safeguards, thus providing them with the opportunity to correct maladjustments in their balance of payments without resorting to measures destructive to national or international prosperity.

International Atomic Energy Agency (**IAEA**)

Although not strictly a Specialized Agency, the IAEA is an autonomous inter-governmental organization under the aegis of the United Nations, established in 1957 to further the peaceful uses of atomic energy. Its functions include assistance in research and practical application of atomic energy, including the production of electrical power with special consideration being given to under-developed areas; to foster the exchange of scientific and technical information and the training of scientists and experts in the peaceful uses of atomic energy and to establish safety standards for the protection of health and the minimization of dangers to life and property from atomic energy. The headquarters of the Agency are at Vienna; there are no regional offices.

Subsidiary United Nations Organs

United Nations Children's Fund (**UNICEF**)

UNICEF, which usually operates through the appropriate Specialized Agency, although not a Specialized Agency itself but an organ of the United Nations, was first established in 1946 as the United Nations International Children's Emergency Fund. It is serviced by the United Nations Secretariat in New York. Its terms of reference, as amended in 1950, are to meet "through the provision of supplies, training and advice, emergency and long-range needs of children and their continuing needs, particularly in under-developed countries, with a view to strengthening wherever this may be appropriate the permanent child health and child welfare programmes of the countries receiving

[5] The United Nations; *The First Ten Years*, ed. B. A. Wortley. *Manchester University Press*, 1957; p. 150.

assistance". It is supported by voluntary contributions from those nations able to help with money, goods and services. It distributes aid on the basis of children's needs to countries which cannot meet these needs from their own resources. It makes direct agreements with governments. A feature of UNICEF aid is the requirement of matching contributions whereby the recipient country provides from its own resources an agreed contribution towards the project. The present fields of UNICEF activity include medical (anti-malarial campaigns, anti-tuberculosis vaccination, yaws control, supplementary feeding, leprosy control), mothercraft, homecraft, community development, rural education, nutrition, food production and social services for children.

United Nations Technical Assistance Operations

The technical aid available from United Nations sources to under-developed countries will be discussed in a later article. To complete the organizational picture, however, the structure of that part of the United Nations concerned directly with technical assistance is described briefly.

U.N. technical assistance to under-developed countries dates from 1947. In 1949 a comprehensive plan, known as the Expanded Programme of Technical Assistance (**EPTA**), was approved by the General Assembly. The primary objective of the plan was to help under-developed countries "to strengthen their national economies through the development of their economic and political independence in the spirit of the Charter of the United Nations, and to ensure the attainment of higher levels of economic and social welfare for their entire populations".[6]

EPTA is financed by voluntary subscriptions from member states, and operates among recipient countries (each of which has a separate "country programme") through the "participating organizations" – the UN, IAEA, ILO, FAO, UNESCO, ICAO, WHO, ITU, and WMO. Some of these also provide additional technical assistance financed from their own regular budgets. The main bodies giving aid under the Regular Programme are WHO, UNESCO and the UN; ILO gives similar aid, but much less. The Regular Programmes are settled by the various Agencies without reference to the UN itself.

Administrative control and co-ordination of EPTA is exercised by the UN Technical Assistance Board (**TAB**), a permanent body which reports to the Technical Assistance Committee (**TAC**) of ECOSOC. This Committee (TAC) is composed of the eighteen members of the Council (ECOSOC) with six additional members elected from members of the United Nations and the Specialized Agencies. It must approve country and regional programmes before they can be carried out. TAB comprises representatives of all the participating organizations under an independent executive chairman (at present Mr. David Owen) appointed by the secretary-general of the United Nations. TAB functions are to co-ordinate and supervise operations under the Expanded Programme, and to consolidate the yearly requests from each recipient country into an overall programme for submission to TAC. To carry out its co-ordinating functions in the field, the Board (TAB) maintains a network of field offices in many of the countries which are receiving a substantial portion of aid under the Expanded Programme. These offices are under the charge of the resident representatives of TAB, whose major role is to assist governments in drawing up annual programme requests. They also help to co-ordinate the activities of the

[6] *Everyman's United Nations ;* United Nations Office of Public Information; 1959; p. 192.

Expanded Programme with those of other aid programmes and act as agents for the Special Fund (see below).

The division of the U.N. Secretariat which handles technical assistance activities under both the Regular (that is to say, technical assistance financed from the regular budget of the United Nations Organization) and the Expanded Programmes is the *Bureau of Technical Assistance Operations*. The scope of U.N. assistance, which covers subjects not dealt with by the Agencies, includes public administration, economic development, social welfare, and narcotics control.

The U.N. Special Fund is a separate body from TAB. This was set up in 1959 to handle relatively large technical assistance operations, mainly of a 'pre-investment' kind; they are projects which are essential preliminaries to government or private investment. These projects can last up to five years and Special Fund contributions to each must be not less than $250,000 in experts, services, equipment and fellowships. The Special Fund is run by a managing director (Mr. Paul Hoffman) and a governing council consisting of eighteen members of the United Nations elected by ECOSOC. This council meets twice yearly to consider and approve schemes. It reports not to the Technical Assistance Committee, but direct to ECOSOC. Close relations are however maintained between TAB and Fund headquarters in New York and through the use of the resident representatives of TAB as agents for the Fund.

COMMONWEALTH ECONOMIC CONSULTATION

Commonwealth Economic Consultative Council

It was agreed at the Commonwealth Trade and Economic Conference in Montreal in September, 1958, that the existing economic consultative machinery of the Commonwealth should be co-ordinated under the name of the Commonwealth Economic Consultative Council. Paragraph 84 of the report of the Conference (Cmd. 539) reads as follows:–

> "84. We have agreed to co-ordinate existing economic consultative machinery of the Commonwealth under the name of the Commonwealth Economic Consultative Council. At the highest level the Council will consist of the Finance and Economic Ministers of the Commonwealth countries, who will meet together whenever circumstances demand. The Council will incorporate various channels and bodies through which economic consultation at present takes place and any further bodies which may be set up from time to time on a temporary or permanent basis. Meetings at high official level will also be held as necessary to prepare for the meetings of ministers".

All Commonwealth governments have subsequently agreed that the Council, which does not have any permanent secretariat, should be regarded as also incorporating:–

(1) meetings of senior Commonwealth economic officials held to prepare for meetings of ministers;
(2) the Commonwealth Liaison Committee;
(3) the Commonwealth Economic Committee;
(4) meetings of Commonwealth statisticians to consider the balance of payments of the sterling area.

Commonwealth governments have also agreed that the inclusion of other Commonwealth bodies through which economic consultation takes place should be considered from time to time as seems desirable.

At its meeting in September, 1960, the Council initiated the Special Commonwealth African Assistance Plan in order to focus attention on the efforts of members of the Commonwealth to assist Commonwealth countries (including dependent territories) in Africa, and to help further in meeting their needs for assistance. This will be dealt with in a later article.

Commonwealth Economic Committee

The Commonwealth Economic Committee (formerly the Imperial Economic Committee) was set up in 1925 as a result of the Imperial Economic Conference of 1923. Its functions are to provide economic and statistical services on subjects affecting Commonwealth production and trade, as well as to examine and report on any economic questions which member governments refer to it. Since its inception, the Committee has issued a large number of reports in addition to its regular intelligence services and commodity series. The work of the Committee is at present being expanded on lines approved at the conference in Montreal in 1958.

OTHER ORGANIZATIONS

Organization for Economic Co-operation and Development (**OECD**)

The Organization for Economic Co-operation and Development came into being on 30th September, 1961, as a successor to OEEC. The members of OECD are the eighteen former members of OEEC; Austria, Belgium, Denmark, France, Western Germany, Greece, Iceland, Ireland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey and the United Kingdom, with Canada and the United States. Its functions will be to promote economic policies which combine economic expansion with financial stability in member countries, contribute to economic expansion in the less-developed countries all over the world, and contribute to the expansion of world trade on a multilateral, non-discriminating basis.

Development Assistance Committee

One of the committees of OECD will be the Development Assistance Committee, which will continue the work of the Development Assistance Group, set up in 1960 to facilitate consultation and co-operation between the aid-giving countries, in order to promote the flow of long-term funds to the developing nations of the world. The membership of this committee is made up as follows:– Belgium, Canada, France, Western Germany, Italy, the Netherlands, Portugal, the United Kingdom, and the United States, Japan and the Commission of the European Economic Community.

Commission for Technical Co-operation in Africa South of the Sahara (**CCTA**)

The Commission has been in existence since 1950. The years 1950 to 1953 formed an experimental period, and it was not until 1954 that the agreement establishing CCTA was signed in London by the governments of Belgium,

France, Portugal, the Federation of Rhodesia and Nyasaland, the Union of South Africa and the United Kingdom. The total membership is now twenty-five; its headquarters are in Lagos.

CCTA organizes technical conferences in Africa, which are attended by representatives of the territories of the member governments and to which observers from non-member governments in the region, and from other international organizations, may be invited. It supervises the activities of a number of permanent technical bureaux. It has also created a number of advisory committees and panels of correspondents, the members of which communicate direct with one another within their specialized technical fields. Among the subjects dealt with are agriculture, forestry, fisheries, animal diseases, social services, social sciences, education, medicine, labour, housing, statistics and conservation of nature. CCTA co-operates with other international organizations including the Specialized Agencies of the United Nations.

CCTA is advised in scientific matters by CSA – the *Scientific Council for Africa* – which was established in 1950, and consists of specialist scientists, not necessarily in government service; its purpose is to provide a body of scientific opinion able to advise governments from a strictly objective point of view. The council suggests new subjects for research and how to set about them. It provides liaison between, although it does not supervise, scientific bureaux working in this field and individual research workers. It recommends to CCTA methods of co-ordination where this is desirable and the holding of specialist conferences when required. Finally, it collects and distributes scientific information.

The Foundation for Mutual Assistance in Africa South of the Sahara (**FAMA**)

FAMA was established in 1958 under the auspices of CCTA to assist in the provision of technical assistance for the CCTA area. It functions as a clearing house for technical assistance to be arranged bilaterally between donors and recipients. Assistance is also provided to countries in the area which are not members of CCTA.

Colombo Plan

The Colombo Plan is not so much a planned and directed programme for the development of South and South-East Asia as a co-operative endeavour comprising the individual development programmes prepared by the countries in the area. It is designed primarily to raise the standards of living of the peoples concerned and to provide a foundation for further improvement. The Plan had its origins in the meeting of Commonwealth Foreign Ministers held at Colombo in 1950, which set up a consultative committee to serve the needs of the area, to assess the resources of capital and technical manpower available and required, to focus world attention on the problems and to provide the framework within which an international co-operative effort could be developed. It was never intended that the Plan should be limited to the Commonwealth; in addition to most Commonwealth countries and the dependent territories in the area, member countries include the United States and a number of independent Asian countries. The Plan operates in close association with the International Bank, the regional Economic Commission for Asia and the Far East, and the U.N. Technical Assistance Board.

South Pacific Commission

A regional Commission was established in 1947 for the South Pacific, the members being Australia, France, the Netherlands, New Zealand, the United Kingdom and the United States. The Commission is a consultative and advisory body whose function is to encourage and to strengthen international co-operation in promoting the economic and social welfare and advancement of the peoples of the non-self-governing territories in the region. Each territory has its own development programme, which the Commission assists by bringing people together for discussion and study, by research into some of the problems common to the region, by providing expert advice and assistance and by disseminating technical information.

Caribbean Organization

An Anglo-American Caribbean Commission was established in 1942 for the purpose of encouraging and strengthening economic and social co-operation between the United States and its dependencies in the area on the one hand, and the United Kingdom and the British Caribbean colonies on the other. In 1945, France and the Netherlands joined and the name became the Caribbean Commission. The final meeting of the Commission took place in September, 1961, immediately after which the Caribbean Organization was formally brought into being by a joint declaration made under the terms of an agreement signed in June, 1960, by representatives of the British, French, Netherlands and United States Governments.

The members of the new Organization are France for French Guiana, Guadeloupe and Martinique, the Netherlands Antilles, Surinam, the British territories in the West Indies, Puerto Rico and the United States Virgin Islands. Membership is open to the Bahamas, British Honduras and the British Virgin Islands, but they have decided not to join the Organization at present. The metropolitan governments of the Netherlands, the United Kingdom and the United States have observer status.

The functions of the Organization are similar to those of the Commission which it succeeds; they concern social, cultural and economic matters of common interest to the Caribbean area, particularly agriculture, communications, education, fisheries, health, housing, industry, labour, the arts, social welfare and trade.

The Organization of American States (**OAS**)

OAS was established in 1948 by the Charter of Bogota by the members of the International Conference of American States, which first met in 1890. OAS is thus one of the oldest bodies of international consultation. It consists of the 21 republics of the western hemisphere; Canada is not a member although the United States has stated publicly that it hopes she will join. The Pan-American Union in Washington functions as the permanent secretariat, and the secretary-general is Dr. José Mora. The council of OAS consists of a special representative from each of the republics who is frequently his country's ambassador in Washington.

The activities of OAS and its subordinate bodies cover all aspects of inter-American affairs, political, economic, social, cultural and legal. The two bodies most closely concerned with economic affairs are:–

(1) *The Inter-American Economic and Social Council*, established by Article 63 of the Charter of OAS to promote the economic and social welfare of the American states through co-operation in planning and development. This body advises the council of OAS and renders technical assistance to the member governments on request. In August, 1960, a special meeting of the council in Uruguay established a committee of experts to put into effect President Kennedy's "alliance for progress" programme. The United States has promised to contribute $1,000 million in aid to Latin America during the coming year, and hopes to provide aid on a similar scale in the coming years to promote economic development and social reform;

(2) *The Inter-American Development Bank* was established in 1959. The loan capital consists of $850 million and a Fund for special operations of $150 million. 46% of the capital is supplied by the United States and 54% by the Latin American nations. Loans can be made for public and private development projects. The President of the Bank is Sr. Felipe Herrera of Chile.

Book Review

THE EMERGING STATES OF FRENCH EQUATORIAL AFRICA. By Virginia Thompson and Richard Adloff. *Stanford University Press and Oxford University Press*, 1961; pp. xii + 529; 48s.

THIS is a welcome companion to the authors' earlier *French West Africa*. It has been written on similar lines, except that the part devoted specifically to each of the separate territories, or states as they have now become, is greatly expanded (over 180 pages for the 4 AEF states compared with little more than 70 pages for the 8 AOF territories). This results in a certain amount of repetition but it brings out better the distinctive features of each separate country. The emphasis is on the economy and its development throughout the colonial period and full use has been made of the ample documentation available. This is the most valuable aspect of the book (subject to one later reservation). The account of political developments in each country is briefer but adequate, especially as the underlying tribal and religious factors are not neglected, indeed emphasized. The more analytical treatment of the political scene in general is less satisfactory and calls for some comment.

Of particular interest to English readers will be the chapters on municipal government and rural councils; on the civil service (which deals mainly with African criticism of European officials); on the status of the chiefs (all too brief); and on justice and the courts of law. The chapter entitled 'The Administration' purports to trace the ebb and flow of authority between the governors and assemblies of the four territories, the governor-general and the *Grand Conseil* and the relevant ministers in Paris. But important terms such as federalism, decentralization, even 'French Government' (p. 31) are used much too loosely; the account of the reforms under the *loi-cadre* is too brief to be illuminating; and there are certain errors (it is not true that only a majority of the *conseils de gouvernement* were elected: there was no question of AEF seceding from France as is suggested on p. 33).

The chapter 'Representative Institutions' is, however, the one most open to criticism. It is intended as a brief factual account of the manner in which the territories were represented in the various assemblies at Paris. There are three tables: the first, showing the number of seats allocated to AEF, refers to 1947; the second, showing the names and party of those elected, refers to 1954. There is no indication that Tchad was given an extra seat between these two dates, namely in 1951: nor that the names of the two deputies elected by the first college have, for some unknown reason, been omitted. The third table contains two errors of fact: Oubangui-Chari's assembly had 50 members in 1956, not 45; that of Tchad 65, not 60. Finally the point is made that the Africans themselves did not always support the abolition of the double college (" . . . the Africans in Tchad's territorial assembly even voted to maintain the double college there," p. 39). But as the authors themselves make clear elsewhere in the book, the Africans elected to the Tchad assembly were largely dependent upon the support of the Administration: their vote had very little significance.

It is to be hoped that those parts of the book which the reviewer has not the competence to check in detail, for instance those parts dealing with finance and the economy, do not suffer from similar blemishes. It would be a pity if this were so, for the book has much to recommend it.

S. K. PANTER-BRICK.

OTHER BOOKS RECEIVED

LAND TENURE IN ZANZIBAR, by John Middleton. *Her Majesty's Stationery Office;* 1961; pp. 88; 15s.

A report on the systems of land tenure in the indigenous (Shirazi) area of the islands.

BRITAIN'S CONTRIBUTION TO DEVELOPMENT IN THE TROPICS, by Sir Joseph Hutchinson. *University of Hull Publications;* 1961, pp. 20; 2s. 6d.

The record of the St. John's College Cambridge Lecture 1960-61 delivered at the University of Hull on 22nd February, 1961.

SERIALS FOR AFRICAN STUDIES compiled by Helen F. Conover. *Library of Congress, Washington;* 1961; pp. 163; $1.

A new bibliographical guide listing more than 2,000 titles of periodical publications concerned with Africa. It is obtainable from the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

INTERNATIONAL POLITICAL SCIENCE ABSTRACTS, Vol. X, No. 4, prepared by the International Political Science Association. *Basil Blackwell;* 12s.

Abstracts of articles published from July to September 1960.

AN INTRODUCTION TO THE HISTORY OF EAST AFRICA, by Z. A. Marsh and G. Kingsnorth. *Cambridge University Press*, pp. 273; 17s. 6d.

A new edition of a book, of particular use to schools, which covers the history of East Africa as a whole, giving roughly equal weight to each territory. There is a new appendix on post-war changes in Kenya.

THE KENYATTA ELECTION, KENYA 1960-61, by George Bennett and Carl Rosberg. *Oxford University Press on behalf of the Institute of Commonwealth Studies, Oxford;* 1961; pp. 230; 30s.

The story of Kenya from the Lancaster House Conference of early 1960 to the formation of the new Government in April 1961.

AFRICA AND THE VICTORIANS, by R. Robinson and J. Gallagher with Alice Denny. *Macmillan;* 1961; pp. 491; 45s.

A book which represents a major achievement in bringing a new understanding to the reasons for the British incursion into Africa.

THE FOOD ECONOMIES OF URBAN MIDDLE AFRICA; *The Case of Ghana*, by Thomas T. Poleman. *Ford Research Institute, Stanford University;* 1961; pp. 175; $1.50.

A study in the character of urban demand, the changes in demand that are likely to accompany rising incomes, and the capacity of marketing systems now supplying the cities of Ghana.

CONGO TRIBES AND PARTIES, by Daniel Biebuck and Mary Douglas. *Royal Anthropological Institute;* 1961; pp. 49; 1s. 6d.

The first of a series of pamphlets planned by R.A.I. to deal with different regions in Africa and in parts of Asia. It analyses the political implications of the tribal groupings in the Congo.

BELGIAN ADMINISTRATION IN THE CONGO, by Georges Brausch. *Oxford University Press*, 1961; pp. 92; 7s. 6d.

Written by a former Belgian civil servant with long experience in the Congo administration. This information booklet is one of a series issued under the auspices of the Institute of Race Relations, London.

THE TWILIGHT OF EUROPEAN COLONIALISM, by Stewart C. Easton. *Methuen*; 1961; pp. 592; 50s.

A comprehensive appraisal of modern colonialism, charting the political development of each British, French, Belgian and Portuguese colony in chronological sequence.

THE NEW AFRICA LIBRARY. *Oxford University Press.*

The first two books to be published simultaneously throughout Africa and in Britain, as the forerunners of a long series of short self-help books written under the auspices of the Africa Educational Trust are

THE ECONOMY OF AFRICA, by Arthur Hazlewood; 1961; pp. 90; 2s., and SAFEGUARDS FOR DEMOCRACY, by Dr. Lucy Mair; 1961; pp. 90; 2s.

ETHNOGRAPHIC SURVEY OF AFRICA, edited by Professor Daryll Forde; East Central Africa, Part XII. The Swahili-speaking Peoples of Zanzibar and the East African Coast (Arabs, Shirazi and Swahili), by A. H. J. Prins. *International African Institute, London*, 1961; pp. 143; 21s.

This latest section of the valuable ethnographic survey of Africa, which the International African Institute is preparing with the aid of a Colonial Development and Welfare grant, appears at a time when the area covered is much in the news, and when the scholarly and extensive information it contains will be of particular interest to all those concerned with the welfare and destiny of this historic part of Africa. There is a map, index and excellent bibliography. The contents includes physical environment, archaeology, history, economy, social structure, political organization and law. Another first class study in this valuable series.

Reports

KENYA. *Sessional Paper No. 2 of 1961. Government Printer, Nairobi.*

THE RECONSTITUTION OF LOCAL AUTHORITIES

General

In paragraph 11 of the report of the Kenya Constitution Conference, 1960, it was stated that the aim of Her Majesty's Government was—

(*a*) to build a nation based on parliamentary institutions; and

(*b*) to achieve a general acceptance by all of the rights of each community to remain in Kenya and play a part in public life.

2. In the light of this statement the Minister for Local Government decided that the constitutions of local authorities should be reviewed. This review entailed an examination of the franchise as applied to local government elections, the composition of and representation on local government bodies and the powers and duties of the permanent staff of local authorities. All local authorities, including African District Councils, were consulted in order to obtain the views on the major points mentioned above.

3. The Government has taken fully into consideration the views expressed by local authorities of all categories and now proposes the amendments on the lines described in the following paragraphs. In putting forward these proposals the Government has been guided by the principle that only those who have made a contribution directly or who have made a sustained contribution indirectly to the cost of local government services in a local authority area should have a say in its management.

Municipalities

Constitutions

4. All constitutions of the different municipal councils or boards should in future be made by Order of the Governor in Council of Ministers. This would standardize the procedure which at present varies.

Franchise

5. There should be one electoral roll with qualification as follows:–

(*a*) To have attained the age of 21 years on the qualifying day; and

(*b*) either—

(i) (the ratepayer) is, on the qualifying day, named in the valuation roll of the municipality then in force as the rateable owner of a rateable property included in such roll or, if there is no such roll, he is on that day a rateable owner of rateable property within the municipality; or

(ii) (the householder) has, on the qualifying day, resided within the municipality for 12 months out of the preceding 18 months and is, on the qualifying day, the owner or occupier of residential premises:

Provided that, for the purpose of this paragraph, "owner" means the owner of a freehold interest or a lessee from the Crown or the Trust Land Board, or a sublessee from either of the fore-going, of the whole premises;

"occupier" means a person who, for valuable consideration, is entitled under a separate lease or tenancy agreement to exclusive occupation of such premises; or

(iii) (the person who is entitled to free housing of the same standard as the householder) has on the qualifying day, resided within the municipality for 12 months out of the preceding 18 months, has received an income of not less than £75 per annum, and is, on the qualifying day, provided with residential accommodation which if it were not accommodation provided by the employer, would be capable of being let for valuable consideration under a separate tenancy of exclusive occupation; or

(iv) (the business, professional man or trader) is, on the qualifying day, and has been for 12 out of the preceding 18 months, the proprietor of a licensed business or trade or of a registered or licensed professional practice which is conducted or carried on at premises which are within the municipality; or

(v) (the spouse) has, on the qualifying day, resided within the municipality for 12 out of the preceding 18 months and is the spouse of a person qualifying under (i), (ii), (iii) or (iv) above.

(*c*) (The partnership or company vote). A partnership, or company registered under the Companies Ordinance, shall be entitled to be enrolled once in every ward in which such partnership or company qualifies under (*b*) (i) or (iv) above, provided that no person shall qualify for a vote under subparagraph (*b*) (iv) above and this subparagraph.

Areas and Boundaries

6. (*a*) The area of a municipality to be defined by Order of the Governor in Council of Ministers.

(*b*) The boundaries of the wards to be defined by Order as in (*a*) above, due regard being paid to the area, rateable value and proper representation of the population and to the distribution and pursuits of the population.

(*c*) In accordance with the present law areas may be defined by proclamation as areas under the jurisdiction of a parish council to be known in future as a ward council to be defined by Order as in (*a*) above within the area of a municipality. The members of such ward councils to be elected on the same local government electoral roll.

Qualifications of Candidates: Aldermen, Councillors and Members of Ward Councils

7. (*a*) No change is proposed from the present law regarding qualifications of candidates, except that any racial element is omitted.

(*b*) The number of aldermen to be provided for by Order of the Governor in Council of Ministers and should not be more than one-third of the total number of councillors.

(*c*) The number of councillors of a municipal council or board to be defined by Order as in (*b*) above and the area which has been defined as a ward council either to be represented by councillors elected by the ward council as a whole to the municipal council or board, or by direct election or combination of both.

(*d*) Provision to be made for the continuation of nominated members to represent specific interests, especially that of the Government or para-statal organizations such as the Railways, etc.

(*e*) Provision to be maintained for the appointment of liaison members with other local authorities.

(*f*) Terms of office for councillors and members of ward councils should be three years, one-third of whom should retire each year; and six years for aldermen, one-half of whom should retire every three years.

In areas which are not susceptible of division into wards, the Governor in Council would in exceptional circumstances be empowered to order that councillors be elected to represent such religious and racial interests as he may decide on the basis of reserved seats elected by the electorate as a whole.

County Councils

8. The Government sees no reason to vary the provisions for franchise and representation, etc., for counties from those suggested for municipalities. It must be recognized, however, that because of the large areas which the counties cover and the diversity of interests and population within those areas, it may be necessary to allow three-tier authorities. Provision should be made, therefore, for establishment of one or more ward councils within county district council areas. Such councils to be elected on the same franchise and to have representation on county district councils as suggested in the section devoted to municipalities. The powers of such ward councils would be defined by Order of the Governor in Council of Ministers. It is also proposed to provide for aldermen, to a maximum number being one-third of the total number of elected councillors, and for nominated and liaison councillors as in the case of municipalities. Constitutions will in future be laid down by Order of the Governor in Council of Ministers.

Townships

9. The Government has already accepted a proposal that a new form of township with an elected township board should be provided for. This means that in such cases the District Commissioner would no longer be the township authority. The members on such township boards would be elected on the same franchise as suggested for municipalities and, depending on the size of the townships, might be elected according to wards to be delineated by order, or by the whole board being elected to represent the total township area. These townships could be incorporated into African District Councils in the same manner as locational councils are now so incorporated. They could also be incorporated into county councils as county districts or remain as independent local authorities.

African District Councils

10. Constitution and membership of African District Councils are at present laid down by Provincial Commissioners after consultation with the council concerned. There is such a great variety of African District Councils at the moment that it would not be desirable to lay down any standard form of constitution. It is proposed, therefore, that Provincial Commissioners should continue to consult with African District Councils as at present.

11. Provision should be made for aldermen for African District Councils up to a number of not more than one-third of the total council.

12. It is not proposed to alter the franchise for voters in African District Council areas although the objective is to bring them into line with voters in municipalities and county councils as and when individual titles are issued and rating on individual properties can take place. It is not intended however that full registration shall necessarily have to precede an elevation to county status, reference to which is made in paragraph 15 below.

13. It is proposed that enabling provisions should be made in the Ordinance under which the Minister can incorporate a township or trading centre which at the moment lies within the geographical area of an African District Council within that council's jurisdiction, subject to the provision of town committees or elected urban councils as may be appropriate, and to representatives of these councils being elected to the African District Councils. Such urban areas should be able to be granted the same powers as a township and would indeed be the second-tier urban local authorities in such areas. The process of incorporation would be a gradual one.

Legislation to Establish Local Authorities and to Define their Power and Duties

14. It is also Government's view that it is desirable to have only one local government Ordinance for the Colony and for all powers, functions and duties to be clearly specified in the Orders constituting each local authority. Such Orders would refer to any enabling legislation as well as powers within the Ordinance itself. Provision would be made for a local authority to change its status in accordance with its development whether from urban district to municipal or African District Council to county council status.

15. As subjects from a legal point of view tend to become more complicated it is inevitable that it will not be possible to continue the present system by which comprehensive powers and duties are included in a local authority Ordinance. For example, the recent amendments to the Agriculture Ordinance lay down that local authorities may make by-laws on specific agricultural subjects with the consent of the Ministry of Agriculture. Similar proposals are under consideration with regard to the Traffic Ordinance and a new Roads Bill. Equally a local authority's powers and duties in respect of public health are at the moment partly in the Public Health Ordinance and partly in the Local Government Ordinances. It would be proposed that such subjects would generally be dealt with by an Ordinance which would contain certain clear enabling powers to show exactly what the powers and duties of the local authority are in respect of that subject. This further proposal is not one that can be undertaken swiftly and full consultation would be necessary with local authorities. It does, however, appear a logical extension of Government's present policy of development of local authorities and one which will ensure that—

(*a*) there are no doubts as to the power of a local authority;
(*b*) local authorities can progress from a limited type of authority to a more elaborate one; and
(*c*) any question of racial discrimination can and will be removed.

Local Government Service Commission

16. Government has also under consideration the creation of a Local Government Service Commission. The reasons for this proposal are:–

(*a*) It is very desirable in the long-term future to unify local authorities as much as possible, bearing in mind that with the variation in pace of development in the country, separate circumstances will still require separate solutions.

(*b*) In the same way as there is a strong move towards localization of central Government staff, so too there must be an equally firm movement towards localization of local government staffs. As this comes about tribal loyalties must give way to efficiency and a unified local government service is desirable.

(*c*) An officer joining local government must have security if local government is to secure the best type of candidates. If the staff is to be deployed properly, it must be able to serve those councils where they are most needed. This can only be done efficiently under a unified local government service.

(*d*) It is essential to avoid competition between local authorities for staff as any form of competition would only result in inflated salaries.

17. The duties of such a Local Government Service Commission might be as follows:–

(*a*) To devise salary scales compulsory on all local authorities.

(*b*) To prescribe conditions of service, leave, pensions, method of recruitment, etc.

(*c*) To keep watch over the careers of all types of local government officers of the administrative, professional or technical grades.

(*d*) To advertise vacancies and send forward lists of possible candidates to local authorities who would make the final selection.

(*e*) To act as an appeal court in cases of dismissal.

(*f*) To arrange for training, including courses.

Local Government Conventions

18. In the development of local government in Kenya the Government has naturally tended to follow U.K. practice. However, it is well known that there are many conventions which have been evolved in the U.K. over a long period of time which have never received legislative sanction. These conventions apply to many aspects of local government and not least in the conduct and standing of a local authority's officers. It is interesting to note that the State of Israel set up a special committee to produce a code to assist the civil servant in establishing guide lines for his own conduct. The reason for it was because there was no long-standing Civil Service tradition in Israel and they therefore considered codes in other parts of the world and finally produced a code designed for their own needs. Further in the U.K. the courts have from time to time established categorical rulings on the correct conduct of a local authority and its servants. They have, for example, laid down quite clearly that a treasurer has a fiduciary capacity so far as the spending of public funds is concerned. They have further laid down that a council may only spend its revenues in a reasonable manner. A council may not act arbitrarily nor try to stretch its powers to cover purposes which were never contemplated. For example, it may not raise the general level of wages, introduce a principle of equal pay, give free travel to old people, nor subsidize rents abnormally. These are all in effect new social services. A decision to operate such services must be taken

by the national Government and specific powers in that respect granted to the local authority before it itself can undertake such social services.

19. With this in mind, it is the intention to introduce into the legislation certain features of U.K. local government conventions which have stood the test of time and which are considered suitable to the conditions and needs of the Colony. These will include the rights and duties of chairmen, councillors and officers and the relationship between them. It will also regulate the composition, function and responsibilities of committees and their relationship with the council as a whole. New audit and surcharge provisions will be included and provision made for model standing orders within limits to meet local needs which will be applied by law. Finally, it is proposed to include in the Ordinance a right of appeal to the Minister if any councillor or officer feels that the law is not being observed in the above instances. The Minister might appoint an inspector to assist him in making a decision on such an appeal or alternatively it might be desirable to refer the case in issue to the courts.

Conclusion

20. It must be appreciated that before these proposals can be put into effect, legislation will need to be drafted and all local authorities will therefore have ample time for considering them in detail when the legislation is published.

GHANA. *Report of Insolvency Commission. Government Printer, Accra or Crown Agents;* 1961; 12s. 6d.

This report is part of a programme to provide Ghana with a set of up-to-date commercial laws. It is complementary to that by Professor Gower on Company Law, published in April 1961. The terms of reference were (*a*) to consider and make recommendations regarding the better protection by law of auditors and debtors in case of insolvency, and (*b*) to consider what legislation is desirable for the purpose of the administration of the affairs of insolvent persons, estates, firms and companies and of related matters, and to make detailed recommendations thereon. The detailed recommendations include a draft insolvency bill.

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